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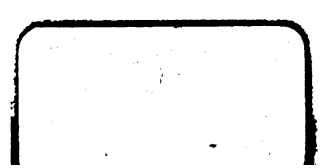

THE CASE OF THE SOUTH AGAINST THE NORTH:

OR

HISTORICAL EVIDENCE JUSTIFYING THE SOUTHERN STATES OF THE AMERICAN UNION IN THEIR LONG CONTROVERSY WITH THE NORTHERN STATES ... ...

BY

BENJAMIN FRANKLIN GRADY,

A REPRESENTATIVE IN THE FIFTY-SECOND AND FIFTY-THIRD CONGRESSES OF THE UNITED STATES

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"By enlarged intellectual culture, especially by philosophic studies, men come at last to pursue truth for its own sake, to esteem it a duty to emancipate themselves from party spirit, prejudices, and passion, and through love of truth to cultivate a judicial spirit in controversy. They aspire to the intellect not of a sectarian but of a philosopher, to the intellect not of a partisan but of a statesman."

—LECKY.

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ERRATA.

On page 32?, second line from bottom, read "unacknowledged" for "acknowledged."

PREFACE.

This work, addressed to those who hold that a public office is a public trust and that the moral law of Christendom is as binding on organized communities as on individuals, has for its primary object the removal from the public mind of some of the wrong impressions which have been made during the last thirty-seven years. A few of them are:

1. That the States of the Union are mere fractions of the "American Nation."

2. That the people of the Southern States committed treason against "the Government" in 1861.

3. That the people of the Southern States attempted in 1861–'65 not only to destroy the Federal Government, but, in the words of Abraham Lincoln at Gettysburg, November 19, 1863, to cause "government of the people, by the people, and for the people" to "perish from the face of the earth"; and

4. That the Southern States inaugurated the war for the purpose of preserving African slavery in their borders.

The time has not yet come when the events here recorded can be discussed with absolute freedom from passion; but the eternal verities demand that we wait not for that time, especially since a fresh movement has been made in certain quarters to "make treason odious."[1] The lesson these events teach is indispensable to us when we are called on for our voice and vote in remod-

[1] This movement was made in the early months of 1897 by the organized veterans of the North.

eling the foundations of government, in promoting any line of policy, or in choosing our public servants.

Briefly stated the lesson is:

1. Many of the mischiefs done by governments are traceable to the ignorance of those appointed to administer them.

2. Extravagance is almost unavoidable when the method of taxation enables the Legislature to lay unperceived burdens on the shoulders of the taxpayers.

3. Whenever the Legislature is beyond the reach of the critical eye of the people, local, sectional, or class interests will encroach on the rights of the people.

4. The property of the community or of individuals will be wasted or diverted from legitimate uses whenever placed at the disposal of a Legislature.

5. No mere quorum ought to be empowered to enact laws affecting the rights of the people; and no law ought to be valid unless it has received at least the approval of a major part of the total membership of the Legislature.

6. Written Constitutions present no effective barrier to the avarice of classes, the ambition of individuals, the schemes of party, or the machinations of fanatics; and

7. So long as the mass of the people are unable to understand the structure and administration of their Government they will continue to be dupes of callow statesmen and professional office-seekers, and victims of misgovernment.

We can not retrace our steps or right the wrongs of the past; but it is not too much to hope that a more enlightened generation now entering upon the duties of guarding themselves and their posterity from recurrences of the mistakes of the past, may strive to restore and vivify the principles on which alone any just gov-

ernment can be founded, and, by reestablishing the system of governments in and between these States which our fathers hoped would be indestructible, "insure domestic tranquillity" and "secure the blessings of liberty" to themselves and their posterity.

The secondary object of the work—secondary only as a logical conclusion—is to demonstrate beyond a possibility of doubt that the cause of the South was the cause of Constitutional government, the cause of government regulated by law, and the cause of honesty and fidelity in public servants. No nobler cause did ever man fight for!

Time is healing the wounds of the past; the generation of the war period is passing away and giving place to new men, to whom the passions of that period are becoming a tradition; and in a few more years Jefferson Davis and Abraham Lincoln, Robert E. Lee and Ulysses S. Grant, and Stonewall Jackson and Winfield S. Hancock will be thought of, North and South, with no more passion than that excited in our bosoms by the mention of Oliver Cromwell and Charles I, or George Washington and Earl Cornwallis. Each one of these men may possibly appear to the future student as a product—an inevitable result—of forces, hereditary and contemporaneous, of which he was not the creator. And, tracing those forces, as best he may, to their germs, possibly he may find ignorance and unenlightened selfishness to have been among the most fertile of those from which sprang the forces to which he may attribute any deviations from his standard of right.

The author regrets the necessity forced on him by the object he had in view of removing the veil behind which have stood for generations the revered figures of the "fathers," and of exhibiting some of them to the close inspection which never fails to discover in them "like

passions with " ourselves. He trusts, however, that, since truth can be no respecter of persons, he may be pardoned for this offense.

He regrets also a lack of logical consistency in the chapters dealing with the causes of the Revolutionary war and the motives of the principal actors in it. This was unavoidable, because no thoroughly truthful and exhaustive history of that war has ever been written; "and," as ex-President John Adams wrote, January 3, 1817, to the editor of Niles's Register, "nothing but misrepresentations, or partial accounts of it, ever will be recovered."—Niles's Register, January 18, 1817.

In conclusion, it may be well to inform the reader that these chapters were written during the year 1897, and that most of the notes have been suggested by subsequent reading and reflection; and that even some of the chapters have been partially rewritten, chiefly with a view to condensation.

Turkey. N. C., November, 1898.

A SKETCH OF THE LIFE OF THE AUTHOR.

It is not easy for a man to say much about himself without indulging somewhat in self-laudation; hence this sketch shall be short. It may be considered a piece of vanity that I write at all; but I do so solely to gratify the natural desire we all have to know something of the author of a book which claims our attention.

I was born October 10, 1831, on a farm in Duplin County, North Carolina. My great-great grandfather, on my father's side, was an Irishman who came to North Carolina about the middle of the eighteenth century. By intermarriages his blood in my veins is mingled with that of the Whitfields, Bryans, Outlaws and Sloans.

All these families were Whigs during the Revolutionary war; and they were advocates of what was called "strong government" in 1788–'89. Most of them, however, if not all, gradually drifted toward Jefferson's exposition of the powers of the Federal Government; and my father, Alexander Outlaw Grady, became a disciple of John C. Calhoun in 1832–'33, after hearing that statesman defend his position before the General Assembly of North Carolina, of which my father was a member. In 1860–'61 he was a secessionist.

My boyhood days were spent on the farm, where I worked with the slaves during nine months of each year, and attended a three-months school in the winter. When I was about eighteen years of age I began to attend high schools, and after studying four years at the University of North Carolina I received the degree of A.B. in 1857.

I then taught for two years in Grove Academy, Ke-

nansville, N. C., associated with Rev. James M. Sprunt, the gentleman who prepared me for entrance into the University. At the end of this period I was elected Professor of Mathematics and the Natural Sciences in Austin College, then located in Huntsville, Texas. I taught there till the war caused the college to suspend operations. About that time I had what my physician called the typhoid fever, which disabled me for active work till the early months of 1862. Then I joined a cavalry company which was organizing for the Confederate military service, which became Company K in the Twenty-fifth Regiment. We were soon dismounted, however, by the order of General Hindman, and served ever afterwards as infantry. At Arkansas Post, January 11, 1863, the whole command to which I was attached was captured, and we were all sent to Camp Butler, near Springfield, Illinois, where we were imprisoned for about three months. The rigors of winter in that latitude, against which our thin Southern clothing afforded us insufficient protection, prostrated nearly all of us with diseases; but in a short time a supply of blankets and woolen clothing came to us from some ladies of Missouri and Arkansas, and improved our condition very much.

Prison life was rather monotonous; but there was occasionally a little stir among us produced by an exhibition of authority by a small fellow called Colonel Lynch, who was our master. On one occasion he had us all rushed out of the barracks, and into line, and while one set of his underlings were searching our sleeping places—for "spoons," perhaps—another set were searching our persons for money. On another occasion a detail of us, including myself, were ordered out by this little tyrant to shovel snow out of his way—not out of ours. And when we got on the cars to leave the place, he sent men

through each coach with orders to rob us of everything we had except what we had on our backs and one blanket apiece.

Exchanged about the middle of April, I was sent to General Bragg's army at Tullahoma, Tenn., in which I served till the close of the war in Granbury's Brigade, Cleburne's Division, Hardee's Corps, participating in all the skirmishes and battles (except at Nashville and at Bentonville) in which my Brigade was engaged. I was twice wounded—in my face and through my right hand—in the charge on the enemy's main line of breastworks, November 30, 1864, at Franklin, Tenn., and not many yards from where Cleburne and Granbury fell. I had been in what appeared to be more dangerous places, as at Chickamauga, September 19 and 20, 1863; at Missionary Ridge, where Cleburne's Division defeated Sherman's flanking column while Bragg's main army was being routed by Grant, November 25, 1863; at Ringgold, where Cleburne's Division repelled the repeated assaults of the troops of Sherman and Hooker from daylight till 2 o'clock in the evening, thus enabling the wagons, artillery, etc., of our army to get out of the reach of these invaders, November 27, 1863; at New Hope church, where Granbury's Brigade, assisted by one of General Govan's Arkansas regiments, defeated and drove off the ground Howard's Fourth Army Corps, which was attempting to flank Jo. Johnston on his right, May 27, 1864; at Atlanta, where a prolonged seige exposed us to danger day and night, etc., etc. But I had never received a scratch before.

After Hood's disastrous campaign in Tennessee we went to the northern part of Mississippi, from there by railway to Mobile, from there by water and railroad to Montgomery, and from there, partly on foot and partly on the few pieces of railroad which Sherman's vandals

had not destroyed, we came to North Carolina to assist in repelling Sherman.

On the 19th of March, 1865, while the cannon were booming at Bentonville, and my command preparing to leave the railroad for the scene of action, I was sent by our surgeons back to Peace Institute Hospital in Raleigh, where typhoid fever kept me till May 2.

Without money, without decent clothing, and suffering from the effects of the fever, I went to my father's, and obtaining employment in the neighborhood at my chosen profession, I waited on him in his last sickness and saw him die of a broken heart[1] in the year 1867, having survived the war and lived to see the black shadow of "reconstruction" and government by the ex-slaves hovering over his beloved Southland.

I remained in North Carolina, teaching until 1875, most of the time in Clinton, Sampson County. Then my health failing, for lack of sufficient exercise, I abandoned teaching, and went to farming. On the farm my life was not eventful; indeed I had no opportunity to distinguish myself as a farmer. I was appointed a Justice of the Peace in 1879, and in 1881 I was elected Superintendent of Public Instruction for my (Duplin) County, and held that position for eight years.

In 1890 and again in 1892 I was elected to represent the Third North Carolina District in the Congress of the United States.

I did not agree with my father regarding the policy of nullification or of secession. While I subscribed to the doctrine that no State in the Union had ever relinquished the right to be its own judge of the mode and

[1] Two of his sons had been killed in the war, one at Bristoe Station and the other at Snicker's Gap, both in Virginia; and the only remaining son—the youngest—besides myself, had lost the thumb and two fingers of his right hand.

measure of redress whenever its welfare and its peace should be put in jeopardy by the other States, acting separately or jointly, I doubted whether the nullification of a Federal act was consistent with the obligations imposed by the "firm league of friendship" with the unoffending States, if any; and I held that South Carolina should have set a better example than Massachusetts had, and submitted to the tariff as other States did whose interests were identical with her own, and united with them in appeals for justice to the people of the offending States.

As to secession, I believed it to be the best for the Southern States to remain in the Union, and trust to time and the good sense of the intelligent people of the Northern States for justice to themselves and their children. This hope was strengthened by the circumstance that the interests of the expanding West being identical with those of the South, the time was not far distant when that section would join the South in the struggle for riddance from the burdens imposed by the shipping, fishing, commercial and manufacturing States of the East.

This was the stand I took and held until Mr. Lincoln compelled me to choose whether I would help him to trample on the Constitution and crush South Carolina, or help South Carolina defend the principles of the Constitution and her own "sovereignty, freedom and independence." I went with South Carolina as my forefathers went with Massachusetts when "our Royal Sovereign" threatened to crush her.

B. F. GRADY.

Turkey, N. C., November, 1898.

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UNIVERSITY OF CALIFORNIA

SOUTH AGAINST NORTH.

CHAPTER I.

FALSE DEFINITIONS THE CHIEF SUPPORT OF THE FALSE DOCTRINES WHICH DESTROYED THE PEACE OF THE UNION.

"*Contemporanea expositio est optima et fortisima in lege.*"[1]
Wharton's Legal Maxims.

If we carefully examine the long controversy between the two sections of the Federal Union with the object of satisfying ourselves as to the validity of the reasoning, the arguments, and the appeals to the intelligence of the people relied on by the respective disputants—disregarding mere appeals to self-interest and passion—we shall find that in their last analysis they were nothing but differences of interpretation. The fundamental difference, from which all others logically resulted, was about the significance of the terms employed to name or describe the Colonies and their inhabitants after the 4th of July, 1776. One class of politicians maintained that each one of the States was an independent sovereignty; that the Federal Government was nothing more than an agent of the States, created by them for certain well-defined purposes; and that whenever this agent usurped powers not granted to it by the States, they were no longer bound to regard it as their agent; and that, furthermore, a violation of the mutual covenants of the States, solemnly "nominated in the bond," would absolve an injured State from its obligations as a member of the Confederacy. The opposing school of

[1] Contemporaneous exposition is best and strongest in law.

politicians denied the sovereignty of each State; insisted that "the people of America" united themselves in a social compact without regard to State lines, that they, as "one people," organized a "National Government" to manage the affairs of the whole people, and "local" governments to which were entrusted local interests—in short, that the "National Government" representing the sovereignty of the whole people, is paramount to the local or State governments.

These conflicting views led to deplorable consequences; and since it is important that we should be able to ascertain where the responsibility lay, let us apply the test of definition. This may not be infallible, but it is the test which the common sense of mankind has decided to be "best and strongest."

The four most important of these terms are (1) State, (2) sovereign, (3) citizen, and (4) nation.

STATE.

For the true meaning of this word, when applied to communities or governments, we have the authority of statesmen, scholars, historians, jurists, and poets who lived and wrote during the seventeenth and the eighteenth centuries, including the formative period of our Union. Here are some of them:

(*a*) Lord Bacon (who died 1626) in his essay "Of Great Place," begins thus: "Men in great place are thrice servants—servants of the sovereign or State," etc.; and in his essay "Of Seditions and Troubles" he says: "As there are certain hollow blasts of wind and secret swellings of the seas before a tempest, so are there in States"; and, again, "Libels and licentious discourses against the State, when they are frequent and open: and in like sort false news, often running up and down, to the disadvantage of the State, and hastily em-

braced, are amongst the signs of troubles." All through his writings "State" is a synonym for the highest form of an organized community.

(*b*) Dr. Thomas Fuller (died 1661) is quoted thus in Richardson's Dictionary (under "State"): "The word statesman is of great latitude, sometimes signifying such who are able to manage offices of state, though never actually called thereto."

(*c*) Sir Matthew Hale (died 1676) is quoted by Blackstone (first chapter of his fourth book) as saying: "When offenses grow enormous, frequent, and dangerous to a kingdom or State," etc.

(*d*) Boyer's French-English and English-French Royal Dictionary, published in Amsterdam in 1727, defines "State" thus: "(A country living under the same government) *Etat*," etc.; and, again, "(the government of a People Living under the Dominion of a Prince, or in a Commonwealth) *Etat, Empire, Souverainete, ou Republique.*"

(*e*) David Hume (died 1775) says on page 138 of Volume III of his History of England: "Most of the arts and professions in a State are of such a nature, that while they promote the interests of the society, they are also useful or agreeable to some individual"; and, again, "But there are also some callings which though useful and even necessary in a State, bring no particular advantage or pleasure to any individual." All through his volumes the word is used as it is here.

(*f*) Sir William Blackstone (died 1780) says in the chapter already referred to, that a knowledge of the criminal law "is of the utmost importance to every individual in the State"; that the law and its administration "may be modified, narrowed, or enlarged according to the local or occasional necessities of the State"; and that "sanguinary laws are a bad symptom of the distemper of any State."

(*g*) Adam Smith (died 1790) says in his Wealth of Nations, Volume II, page 62: "In the plenty of good land the European colonies established in America and the West Indies resemble and even greatly surpass those of ancient Greece. In their dependency upon the mother State they resemble those of ancient Rome."

(*h*) And Sir William Jones (died 1794) wrote:

"What constitutes a state?
Not high-raised battlements or labored mound,
Thick wall or moated gate;
Not cities proud, with spires and turrets crowned;
Not bays and broad-armed ports,
Where, laughing at the storm, rich navies ride;
Not starred and spangled courts,
Where low-browed baseness wafts perfume to pride.
No! *Men*—high-minded men.
* * * * * *
These constitute a state;
And sovereign law, that state's collected will,
O'er thrones and globes elate
Sits empress," etc.

It is beyond dispute, therefore, that in 1776 "State," whether applied to a people or to their government, was a general term, while "kingdom," "empire," "republic," and "commonwealth" were specific terms, denoting sources of political power. It was a more comprehensive term than either of these. It was so understood by the statesmen who put "the State of Great Britain" in the Declaration of Independence; it was so understood by the Colonies when, through their delegates in the Continental Congress, they declared themselves to be "free and independent States"; it was so understood by their delegates when they set forth "the necessity which constrains them (the Colonies) to alter their former systems (plural) of government"; it was so understood by the negotiators of the Treaty of Peace of 1783, when they wrote:

"His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts-Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia to be free, sovereign and independent States"; and, again, when they penned the declaration: "There shall be a firm and perpetual peace between his Britannic Majesty and the said States"; it was so understood by Massachusetts when she declared herself to be a "free, sovereign, and independent State," although she had adopted "Commonwealth" as her distinctive title; it was so understood by the Continental Congress when it placed this second Article in its plan of union: "Each State retains its sovereignty, freedom, and independence," etc.; it was so understood by the same body when they recognized the Congress as a Congress of States—"the United States in Congress assembled"; it was so understood by the people of New Hampshire when, in their Constitution of 1792, they declared: "The people of this State have the sole and exclusive right of governing themselves as a free, sovereign and independent State"; it was so understood by the people of Vermont when, in their Constitution of 1793, they required "every officer, whether judicial, executive or military, in authority under this State, before he enters upon the execution of his office," to "take and subscribe the following oath or affirmation of allegiance to this State, unless he shall produce evidence that he has before taken the same," etc.; it was so understood by the States when they defined "treason against a State," and their delegates provided for the surrender of any "person charged in any State with treason"; it was so understood by the Congress of the Confederation when, using a practically synonymous word in the Thirteenth

Article of the Ordinance for the Government of the Northwest Territory, they said (July 13, 1787, while the Constitutional Convention was in session): "And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics,[1] their laws, etc., are erected," etc.; it was so understood by the Convention of 1787, which closed its draft of the Constitution with the statement that it was "done in Convention by the unanimous consent of the States present"; and it was so understood by the Congress in 1794, when in framing the Eleventh Amendment they proposed to shield the States against suits prosecuted by "citizens or subjects of any foreign State."

This long line of authorities reaching back beyond 1626, can leave no doubt in the minds of intelligent persons that each one of the States was regarded by itself and by the other States as an independent sovereignty, possessing all the rights, powers and jurisdictions of any other sovereignty; that it could form "a firm league of friendship" with any or all of the other States, or refuse to do so.

When, we may now ask, did they lose their character as States? When did "State" lose its proper meaning? Was it done by one act, or was the operation gradual? The answer to these questions is that it was never done at all up to 1861.

The claim that it was done when they united in 1776 for their mutual defense, is negatived by the second Article of the Articles of Confederation adopted afterwards; and the assertion that it was done by the first three words of the preamble of the Constitution—"We, the people"—is disposed of by the declaration that the

[1] A "republican government is that in which the body, or only a part of the people, is possessed of the supreme power."—Montesquieu's Spirit of Laws, Book II, Chapter I.

Constitution was to be "between the States." Equally unfounded is the claim that the people of all the States were consolidated into a Nation because the Constitution was to be the supreme law of the land. Treaties also were to be the supreme law of the land; and, unquestionably, if the construction of the consolidationists were correct, both parties to a treaty would be sovereigns over the States. The truth is, this was simply another way of declaring, as the Articles of Confederation did, that "each State shall abide by the determinations of the United States in Congress assembled on all questions which by this Confederation are submitted to them"; that "the Articles of this Confederation shall be inviolably observed by every State"; and that "the Union shall be perpetual."

SOVEREIGN.

The term sovereign is properly an adjective, being a modern form of the ancient Latin word *supremus*, which we translate highest. In the course of time it came to be used also as a noun, signifying the man possessing the supreme or highest authority in a State. This was its meaning during the seventeenth century. It was its meaning when these thirteen Colonies freed themselves from British rule. And it is its meaning to-day in monarchical governments.

When, however, the sovereignty of the British king was successfully renounced by these Colonies, the new order of things inevitably led to some confusion of thought, because, strictly speaking, nobody had inherited the sovereignty of the king, who, as to them, was dead. Was each inhabitant a sovereign? Was each State a sovereign? Or were all the people of all the States a sovereign? Naturally the answer to these questions would depend on the answer to the question,

What had become of the allegiance each inhabitant had owed to the British crown? Did he owe anything of the sort now; and, if he did, to whom?

This question was easily answered; each one of the Colonies, after active hostilities began between them and the British Government, and more than a year before the Declaration of Independence, demanded the allegiance of each one of its inhabitants, and in default of compliance the property of recusants was confiscated by the legislatures.[1]

This was done in every one of the States, and the right was denied by nobody except the British and the Tories.

Hence it followed necessarily that, if the word sovereignty was at all admissible in the new nomenclature, it belonged to each State; and, accordingly, in all the early State Constitutions, in the Declaration of Independence, and in the Articles of Confederation, the sovereignty of the several States is recognized as the logical sequence of Independence.

This sovereignty was never renounced, or delegated, or surrendered by the States; they delegated powers, jurisdictions, etc., but this was no more a delegation of sovereignty than the conferring of powers on a tenant transforms him into a landlord.[2]

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[1]In November 1777, the Legislature of North Carolina, in session at Newbern, passed an act, "That all the lands, tenements, etc., within this State, and all and every right, etc., of which any person was seized or possessed, or to which any person had title, on the 4th of July, in the year 1776, who on the said day was absent from this State, and every part of the United States, and who still is absent from the same; or who hath *at any time during the present war* attached himself to, or aided or abetted the enemies of the United States, etc., shall and are hereby declared to be confiscated to the use of this State; unless," etc.—Laws of North Carolina, Potter, Taylor and Yancey's Digest, Volume 1, page 366.

[2]By an apparent oversight the Constitution conferred on the Supreme Court the power to decide suits "between a State and citizens

CITIZEN.

This word is derived from city, as burgess or burgher is from borough or burg, but for some reason, unlike burgess, it was in the course of time applied to members of any community or body politic, and became the opposite of foreigner. The rights and the duties of the citizen depended on the degree of civilization attained to by his community and the nature of the government, and there could be no inference from the word itself as to the privileges and immunities of the person to whom it was applied, whether a man, or a woman, or a child.

In the course of time it became in England and France the equivalent of inhabitant, as the lexicographers inform us, and as we may infer from its use in the Bible where it is found in four places, as follows:

1. Luke xv, 15: "And he went and joined himself to a citizen of that country "

2. Luke xix, 14: " But his citizens hated him, and sent a messenger after him, saying, We will not have this man to reign over us."

3. Acts xxi, 39: " But Paul said, I am a man which am a Jew of Tarsus, a city of Cilicia, a citizen of no mean city."

4. Ephesians ii, 19: "Now, therefore, ye are no more

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of another State." Under this provision a suit was instituted against Massachusetts, while John Hancock was Governor, which is thus referred to in Conrad's Lives of the Signers, etc., page 62.

" He (Hancock) did not, however, in favoring a Confederate Republic, vindicate with less scrupulous vigilance the dignity of the individual States. In a suit commenced against Massachusetts, by the Court of the United States, in which he was summoned upon a writ, as Governor, to answer the prosecution, he resisted the process, and maintained inviolate the sovereignty of the Commonwealth. A recurrence of a similar collision of authority was, in consequence of this opposition, prevented by an amendment (the Eleventh) of the Federal Constitution."

strangers and foreigners, but fellow citizens with the saints, and of the household of God."

"In France," says Alden's Cyclopœdia, "it denotes any one who is born in the country, or naturalized in it."

Such was the meaning of this term in our Revolutionary period, and in what may be called the formative stages of a nomenclature suited to our new and untried conditions.[1]

Hence the sharp line of distinction between royal and popular governments had the king on one side and "the people" on the other; and in all the early documents the word "citizen" is of minor importance.

Let us examine some of them.

1. In the Mecklenburg Declaration of Independence (May 20, 1775) the word does not occur.[2]

2. In the Mecklenburg Resolves (May 31, 1775) it is not found.[3]

3. In the Declaration of Independence (July 4, 1776) "fellow citizens" occurs once, "inhabitants" twice, "free people" once, and "the people" twice.

4. In North Carolina's Constitution (1776) "freemen" appears eight times, "the people" eight times, "inhabitants" five times, and "free[4] citizens" once.

5. In the Articles of Confederation (framed 1777) the

[1]There was an attempt to give a new meaning to the word citizen in the Fourteenth Amendment. It says: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

What the intention was is not clear; and there was a serious oversight, if the word was intended to imply some new relation to the Federal Government, since it excludes people who live in the Territories or in the District of Columbia.

[2]Wheeler's History of North Carolina. Volume I, page 69.

[3]Ibid. 255.

[4]This word "free" shows what was in the minds of the "fathers."

people are called "free inhabitants" once, "free citizens" once, "inhabitants" twice, "the people" twice, and "members" of a State once; and, as if it was intended to leave no ground for misconception, article 4 says: "The free inhabitants of each of these States * * shall be entitled to all privileges and immunities of free citizens in the several States."

It is clear enough, therefore, that in all the Constitutions the "fathers" applied the word citizen to every man, woman or child in the States, whether "free" or not; and that the declaration in the Fourteenth Amendment that "all persons born in the United States are citizens thereof" was the work of a set of statesmen who were ignorant of the first principles on which our Federal system was founded.

NATION.

The word nation comes to us from the Latin language, and its etymological meaning is family, stock, or race. In this sense it was properly applied to the Indian tribes in the early days, as the Five Nations, the Six Nations, etc.

In the course of time, as races became intermingled, the word lost its proper significance, and separate communities were called nations, just as "jus gentium"—the law or right of families—now means the law of nations; but there was nothing in the word itself indicating the nature of the social or political institutions of the people it was applied to.

Hence, when these Colonies entered into united resistance to British aggressions or threatened aggressions, their people began to be regarded by the world as a nation; and with no great impropriety they have been called a nation ever since. The language contained no other word which could *distinguish* them from "for-

eign nations," as it contained no other term applicable to the Swiss, who for ages were divided into independent cantons, united together for no purpose but mutual defense.[1]

In the treaty of amity and commerce concluded between the United States and France, in 1778, "the two parties" are called "the two Nations"; and during the period of the Confederation all writers and speakers applied the word "nation" to the peoples of these States, although in the Articles "each State retained its freedom, sovereignty, and independence"; but when it was proposed to put "nation" in the Constitution, "the fathers" scented danger, and the proposition was rejected. In the progress of events, however, as the necessity arose for justifying some intended or actual infringement of the rights of certain classes or sections of the people, it began to be held that since the people of these States are a nation, it was the duty of the minority to submit to the will of the majority; and after awhile a majority of the "nation"—spelled then with a capital N—became thoroughly indoctrinated in this unfounded construction of the provisions of the Federal Constitution. The ignorance of the people was taken advantage of; such a fact as that Nevada has as much control over legislation as New York, and, in the event of a failure of the electors to choose a President, an equal voice in the election of that officer, was carefully hidden from the people; and at last the administration of the Government became, in their eyes, as national as that of Great Britain. But the mischief did not stop here; the

[1]Mr. Jefferson, February 8, 1786, wrote to Mr. Madison: "The politics of Europe render it indispensably necessary that with respect to everything external we be one nation only, firmly hooped together. Interior government is what each State should keep to itself."

Northern States became the Nation after the war of Secession commenced. It is a familiar sight to see in a newspaper published in one of them the statement that when Sumter was fired on "the Nation flew to arms." It appeared in the New York World as late as the last week in February, 1898.

There is nothing in the Constitution requiring or empowering a majority of the "nation" to elect or control any department or officer of the Government. Mr. Lincoln was chosen by 39 per cent of the aggregate popular votes of the States; it is easily possible for a majority of the Senators to represent a minority of the whole people; a majority of the Representatives can be elected by a minority; and the Judges of the Supreme and other courts may be appointed by a minority President and confirmed by a minority Senate.[1]

On the solid foundation of these definitions a body of political doctrines was erected which can never be demolished, and they were never attacked by any respectable party until it became necessary to defend encroachments on the rights of certain States. In the course of time there was a union of all the interests which had been quartered on the people, and of others which hoped to be so quartered, and also of ignorant and fanatical reformers who proposed to use the machinery of the Federal Government to further their schemes; and by the

[1]If the reader will turn to the census tables he will find that there are 23 States, including the "mining camps," whose aggregate population is 11,597,263, or about 18 per cent of the total population of the States. These States send 46 Senators—a majority of two—to the Congress; and, if political parties were nearly equal in strength in these States, their Senators might represent less than 10 per cent of the population of the "Nation." And he will also see that the aggregate population of Montana, Wyoming, Nevada and Idaho is less than half (about 42 per cent) of the population of West Virginia, although they have as many (four) Representatives in Congress as that State has.

assistance of demagogues, a venal press, and honest but misinformed friends of the Union, they succeeded in establishing a new and powerful school of politicians who denied the truth of History, instilled vicious doctrines into the minds of the people, and prepared the way for the war between the sections.

CHAPTER II.

THE UNION OF THE STATES—ITS OBJECTS, CONDITIONS AND LIMITATIONS.

Having defined the terms which will constantly recur in our discussion, the object in view demands as a next step a clear understanding of the relations of the States to each other after they had entered into a Union, the extent and the limitations of the powers they conferred on any department or officer of the Government which they established, and of the duties or mutual obligations they severally imposed on themselves.

Obviously the opinions and purposes of individuals, which change as knowledge expands and experience enlarges, deserve no place in the solution of such a problem as this; our only trustworthy guide is the action of each Colony in its own legislative assembly, or through its Representatives in the Continental Congress, and, after it became a State, through its delegates in the Congress of the Confederation, in the Constitutional Convention, and in its own Convention called to consider the new Constitution.

No argument is needed to prove that, if the people of any State were induced to adopt the Constitution by misrepresentations of the functions of the Government to be established and the scope of its powers, a fraud was practiced on them; nor was there any fraud. The objects of the framers of the Constitution, and the safeguards against usurpation were honestly and truthfully presented to the people of the several States by the ablest statesmen in all of them, each article, section and clause of the instrument being explained according to the obvious meaning of the words and the accepted canons of interpretation. And, for greater security to

the States and their respective peoples, since experience had taught mankind that governing bodies are prone to exercise powers not belonging to them, a widespread demand led to such amendments as were thought to remove all danger.[1]

The Convention which met in Philadelphia on May 25, 1787, composed of delegates from all the States except New Hampshire, Rhode Island, Connecticut and Maryland (though delegates from all of these except Rhode Island appeared in a month or two), and closed its labors on the 17th of September following, after nearly four months of anxious and sometimes almost hopeless efforts to compromise the conflicting interests of States and groups of States, and agree upon a plan which would probably be ratified by the States, transmitted to the Congress of the Confederation the draft of a Constitution to be submitted to Conventions to be called in the several States by their Legislatures at the request of the Congress.

There were 13 States in the Confederation, but as there were apprehensions that some of them might refuse to abandon the Confederation and adopt the new

[1] Mr. Greeley, in his efforts to find excuses for the conduct of his political associates, asserts that powers were granted of which the people were kept in ignorance. In his American Conflict, Volume II, page 232, he says: "The Constitution was framed in General Convention, and carried in the several State Conventions, by the aid of adroit and politic evasions and reserves on the part of its framers and champions. * * * Hence the reticence, if not ambiguity, of the text with regard to what has recently been termed coercion, or the right of the Federal Government to subdue by arms the forcible resistance of a State, or of several States, to its legitimate authority. So with regard to slavery as well," etc.

From which view of the Constitution, if it were correct, two deductions seem unavoidable:

1. The Revolutionary war was a mistake; and

2. The ratification of the Constitution, secured by fraud, is not binding on any State.

scheme of government, the seventh article provided that if nine States should adopt it, it should be a "Constitution between the States so ratifying the same," the other four States to be left to take care of themselves as they could.[1]

At the ensuing sessions of the Legislatures, all of them except that of Rhode Island called Conventions to consider the ratification of the new Constitution. Delaware ratified it on the 7th of the following December, and New Hampshire on the 21st of June, 1788. These were the first and the last of the necessary nine, but five days after the latter date Virginia and New York acceded to the new Union.[2] Thereupon steps were taken

[1]The reader should note that "between" is used here for the obvious reason that the Constitution was to be of the nature of a compact between (*betwain* or *by two*) two parties, namely, each State as one and its co-States as the other. And the consolidationist may select either horn of the dilemma: If it was intended to establish a new Union, here is recognized the right of nine States to withdraw from the old one; if it was intended simply to amend the old Union, the right of four States to withdraw from it is recognized.

[2]There was formidable and in some instances violent opposition to the ratification of the Constitution. In the Massachusetts Convention, composed of 355 members, after a three weeks debate, it was carried by 19 majority. But in Pennsylvania the proceedings were even more interesting, as we gather from the protest of the opponents of the Constitution, as given on page 29, Volume I, second series, Hildreth's History: "The resolution introduced in the Assembly of Pennsylvania for holding that Convention (to consider the new Constitution) had allowed a period of only 10 days within which to elect the members of it; and the minority in the Assembly had been able to find no other means of preventing this precipitation, except by absenting themselves, and so depriving the House of a quorum. But the majority were not to be so thwarted; and some of these absentees * * had been seized by a mob, forcibly dragged to the House, and there held in their seats, while the quorum so formed gave a formal sanction to the resolution. It was further alleged (by the protest) that of 70,000 legal voters, only 13,000 had actually voted for members of the Ratifying Convention; and that the majority who voted for ratification had been elected by only 6,800 votes."

to hold the elections required by the new order of things, and to inaugurate the Government.

North Carolina's Convention refused to carry the State into the Union, and she and Rhode Island remained out of the Union until sixteen and twenty-two months, respectively, after the ratifications of the necessary nine, their objections having been in the meantime removed by such amendments to the Constitution as were thought to be effective barriers to usurpation.[1]

In the public mind and in the State Conventions there were many objections to the proposed Constitution founded on the total darkness which had enveloped the proceedings of the Convention which framed it.

Some of the erroneous interpretations which the publication of the "secret proceedings" disposed of, have at different times been palmed off on the people as authoritative expositions. For example, Patrick Henry stoutly opposed the ratification by Virginia, and demanded to know why it said "We, the people" instead of "We, the States." "If," he continued, "the States be not the agents of this Compact, it must be one great, consolidated, National Government of all the States." But the "secret proceedings," afterwards published, showed that the final draft of the Constitution, submitted to the Convention August 6 by the Committee

[1]North Carolina's objections to the Constitution may be seen in the following resolution passed on the 1st of August, 1788, after that instrument had been defeated by a vote of 184 to 84:

"Resolved, That a declaration of rights, asserting and securing from encroachments the great principles of civil and religious liberty, and the unalienable rights of the people, together with amendments to the most ambiguous and exceptionable parts of the said Constitution of government, ought to be laid before Congress and the Convention of the States that shall or may be called for the purpose of amending the said Constitution, for their consideration, previous to the ratification of the Constitution aforesaid on the part of the State of North Carolina."—Elliot's Debates, I, 331.

of Five, began with "We, the people of the States of New Hampshire, Massachusetts, Rhode Island," etc., naming all the thirteen States; and that the names of the States were stricken out for the reason that it was not known whether all the States would ratify it, or how many more States would ultimately be admitted into the Union. But this "We, the people" does duty to-day in bolstering up our "great consolidated, National Government."

Mr. Greeley quotes Henry with much satisfaction; but, like Josh Billings's lazy man hunting for a job of work, he read Elliott's Debates "with a great deal of caution." If he had turned to page 94 of Volume III—from which volume, pages 22 and 24, he had quoted Henry's words—he would have found this answer from Madison: "I can say, notwithstanding what the honorable gentleman has alleged * * * Who are parties to it? The people—but not the people as composing one great body; but the people as composing thirteen sovereignties. Were it, as the gentleman asserts, a consolidated government, the assent of a majority of the people would be sufficient for its establishment; and as a majority have adopted it already, the remaining States would be bound by the act of the majority, even if they unanimously reprobated it," etc.

But this is anticipating.

The importance of the subject requires that the reader shall have as a preface to the main discussion a brief history of the relations of the States to each other previous to the formation of the "more perfect Union."

Exposed to dangers from Indians and other enemies, the British Colonies in North America very early recognized the duty as well as the necessity of defending each other; and (omitting two unimportant confederacies) apprehending in 1754 that the war between England

and France would involve the British and French Colonies in North America, the four New England Colonies, New York, Pennsylvania and Maryland, sent Commissioners to a Congress at Albany, N. Y., for the purpose of negotiating a treaty of peace with the Indians who, it was feared, might become allies of the French. This was done; and then the Congress formulated a scheme of a general government of all the British Colonies. But the scheme was rejected by the King of England and by every one of the Colonies.

After the close of the war (1764) England revived, amended, and instituted measures to enforce her old law of 1733 (levying duties on sugar and molasses) which New England shippers and traders had evaded, and which had never been strictly enforced, her avowed excuse being that these Colonies ought to contribute to the payment of her large war debt contracted in part for the defense of the Colonies against the French and their Indian allies.[1]

This created considerable excitement in Boston,[2] which was the largest town in all the Colonies, and imported

[1]The following extract from Smith's Wealth of Nations (Vol. II, p. 66), the first edition of which was published in the winter of 1775–'76, will give us light on this as well as some other matters: "The expense of the civil establishment of Massachusetts Bay used to be about eighteen thousand pounds per year; that of New Hampshire and Rhode Island 3,500 pounds each; that of New Jersey 1,200 pounds; that of Virginia and South Carolina 8,000 pounds each. The civil establishments of Nova Scotia and Georgia are partly supported by an annual grant of Parliament. But Novia Scotia pays, besides, about seven thousand pounds a year towards the public expenses of the Colony; and Georgia about two thousand five hundred pounds. * * * The most important part of the expense of government, indeed, that of defense and protection, has constantly fallen upon the mother country."

[2]Of James Otis, the most active of Massachusetts patriots in denouncing and agitating against this law, Alden's Cyclopedia says: "His opposition to the Royal Government developed 1761, and was

more molasses than all the other seaport towns on the continent; but outside of Massachusetts there was no manifestation of serious discontent.

But when the Stamp Act was passed in 1765, imposing taxes which everybody could see and feel, there was a storm of opposition in all the Colonies, particularly in the towns on the seacoast.

Thereupon, at the urgent request of Massachusetts, delegates from all the Colonies except Canada, New Hampshire, Virginia, North Carolina and Georgia met in a Congress in New York in October, 1765. This Congress of nine Colonies adopted a declaration of rights, and sent an address to the King and a petition to the Parliament, asserting the right of all the Colonies to be "exempted from all taxes not imposed by their consent"—a very remarkable doctrine in the light of subsequent events.[1]

Societies were formed here and there to arouse the people of the several Colonies against the claims of the British Government, and the merchants of Boston, New York and Philadelphia agreed with each other not to buy any more goods from Great Britain until the Stamp Act should be repealed.[2]

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claimed by some to have been greatly intensified, if not wholly caused, by the refusal of Governor Bernard to give his father (James Otis, Sr.), the position of Chief-Justice, for which he had applied on the death of Sewall."

[1]At least five of the States were taxed from 1824 to 1833 (as will be shown in another chapter), not only without their consent, but in spite of their protests; and eleven of them were taxed for seven years (from and including 1865) far more heavily than Great Britain ever proposed to tax them, not only without their consent, but without their being permitted to send Representatives to either House of the Congress; and among the burdens imposed on them was a Stamp Act."

[2]See Note A.

The Stamp Act was repealed the next year; but an act was passed imposing taxes on glass, paper, painters' colors, and tea, on their importation into the Colonies. It was approved by George III in June, 1767.

In February, 1768, the Colonial Legislature of Massachusetts sent a circular to the legislative bodies in the other Colonies, asking their cooperation in efforts to obtain a redress of grievances.[1] This circular was very offensive to the British Government, and a demand for its rescission was sent over; but Massachusetts refused to rescind, and even reaffirmed its doctrines in stronger language. Then ensued a contest between that Colony and the mother country, the latter sending over a body of troops to suppress the "rebels." The excitement increased; the presence of the British troops in Boston added to the causes of irritation, and both sides seemed willing to invite an open rupture. On the 5th of March, 1770, a quarrel arose between a military guard and a number of the townsfolk who, under the lead of Crispus Attucks, a negro, surrounded the guard and attacked it "with clubs, sticks and snow-balls covering stones." Being dared to fire by the mob, six of the soldiers discharged their muskets, which killed three of the crowd and wounded five others. The Captain and eight men were brought to trial for murder, John Adams and Josiah Quincy defending them. All were acquitted except two, who were convicted of manslaughter. These

[1]John Hancock, one of the wealthiest merchants and ship-owners in Boston, was one of those who evaded these taxes. His vessel, *Liberty*, was seized by the Royal Commissioners of Customs in 1768 for violations of the law; and the seizure was followed by a riot. The officers were beaten with clubs, the boat of the Collector was burnt in triumph, and the houses of some of the most conspicuous adherents of the Government were razed to the ground. From these events Hancock gained great popularity, and easily came to the front of Massachusetts patriots.

praying the benefit of clergy were branded with hot irons, and dismissed.[1]

But this "Boston massacre" served the purpose of still further inflaming the passions of the people against the mother country.[2]

About the same time a conciliatory measure was passed by the Parliament repealing all the taxes imposed by the Act of 1767 except that on tea. But this was not conciliatory enough, and an act was passed in 1773 permitting the East India Company to carry their tea into the Colonies and undersell the smugglers of Dutch tea.[3] All export taxes and other restrictions were removed except a duty of three pence per pound to be paid in the port of entry, which was considerably

[1]When Massachusetts invaders fired on and killed some of the people of Baltimore, April 19, 1861, they were not branded or even tried.

[2]It would be grossly unjust to the Irishmen and the children of Irishmen who dwelt in the Colonies, particularly those of the South, if we failed to recognize the part they played in uniting the Southern Colonies with New England, and in waging the war. It would be a pleasant task to search the records and gather up a list of the advocates of independence, at the head of which would stand the names of Charles Carroll of Carrollton, Patrick Henry, Hugh Williamson, James Moore, Thomas Lynch, Edward Rutledge, and others; but we must forego that pleasure, and be satisfied with what may be considered competent evidence of Irish devotion to the cause of independence. Joseph Galloway, Speaker of the Pennsylvania House of Assembly, at the beginning of the troubles, refused to join in measures of resistance, and in October, 1778, he left the States and went to England. There he was examined by a Committee of the House of Commons, and, when asked who composed the armies of the Continental establishment, he answered: "The names and places of their nativity being taken down, I can answer the question with precision. There were scarcely one-fourth natives of America—about one-half Irish; the other fourth were English and Scotch."—Dillon's Historical Evidence on the Origin and Nature of the Government of the U. S. (New York, 1871), p. 56. (See also North Carolina Colonial Records, IX, 1,246.)

[3]Nine-tenths of all the tea they imported was smuggled from Holland.—See Montgomery's Amer. Hist. (Boston, 1894), p. 154.

below the taxes paid in the mother country. It was hoped that this measure would pacify the Colonies; but it was objected to not only in the Colonies, but by the tea merchants of England, who united with the smugglers in appealing to the patriotism of the Colonists to refuse to buy the cheap teas. The importation of this tea was resisted in the principal importing cities, notably in Boston, where the smugglers organized a band of "Mohawk Indians" and dumped into the sea about $100,000 worth of tea.[1]

In consequence of these and other violent proceedings the Parliament passed, in succession, during the next seven weeks, beginning with March 23, four acts, which were commented on as follows by Alexander Elmsly, one of North Carolina's agents in London, in a letter dated May 17, 1774: "By the first (Boston Port Bill)[2] the harbor of Boston is shut up till a compensation is made to their Indian Company for their tea, and till the inhabitants discover an inclination to submit to the revenue laws, after which the King, by and with the advice of the Privy Council, is empowered to suspend the effect of the act. * * *

"The next act is for taking away the charter of the Massachusetts Bay; hereafter the Council are to be appointed by the King, as in the Southern Provinces,

[1]In a letter to the Earl of Dartmouth, dated New York, November 4, 1774, Josiah Martin, the Royal Governor of North Carolina, advises the repeal of the tea tax, and gives this among other reasons: "It will disappoint the views of the smugglers of Dutch tea who have made monstrous advantages of the opposition they have industriously excited and fomented on this subject, professing to aim by these means at the repeal of the Tax Act, which they certainly intended to produce a contrary effect, deprecating in their hearts that course above all things that must inevitably destroy their monopoly of that commodity and all its concomitant benefits."—North Carolina Colonial Records, IX, 1,085–86.

[2]See Note B.

and in certain cases the Governor is to act without their consent and concurrence. The town meetings, except for the purpose of elections, are declared unlawful, and some other new regulations established.

"The third act enables the Governors, in case of an indictment preferred against any officer of the Crown, either civil or military, for anything by him done in the execution of his office, to suspend the proceedings against him in America, and to send him home for trial in England. This law, I am told, the officers of the army insisted on for fear of being prosecuted by the civil power, either as principals or accessories to the death of any person killed in the field of battle, in case things should come to that extremity.

"The fourth and last law respects quartering the soldiery. I have not seen it, but suppose it is calculated to obviate in future the construction put upon the old one, by the people of Boston, in their town meeting, viz, that Castle William, situated three miles out of town, should be taken to be barracks in the town, and of course excluded the pretensions of the army to quarters in the town, even though the purpose of sending soldiers should be merely on account of the commotions and disturbances in the town."[1]

When the people of Boston heard of the passage of the first of these acts they were greatly excited; and a meeting was called "to consider this new and unexampled aggression. It was there voted to make application to the other Colonies to refuse all importations from Great Britain, and withhold all commercial intercourse, as the most probable and effectual mode to procure the repeal of this oppressive law. One of the citizens was despatched to New York and Philadelphia, for

[1]North Carolina Colonial Records, IX, 1.000.

the purpose of ascertaining the views of the people of those places and in the Colonies farther South.[1] A committee, comprising Samuel Adams, Dr. Warren, with John Adams and others of the same high character, was appointed to consider what farther measures ought to be adopted.

* * * * * * *

"The Governor obliged the General Court (Legislature) to meet at Salem, instead of Boston, where they proceeded, after a very civil address to him, to ask for a day of general fast and prayer. This his Excellency refused. But, although he would not let them pray, he could not prevent them from adopting a most important measure, namely, that of choosing five delegates to a General and Continental Congress; and of giving information thereof to all the other Colonies, with the request that they would appoint deputies for the same purpose." (See Life of John Adams in Lives of the Signers, etc.)

Much sympathy for Massachusetts was manifested in other Colonies. The Assembly of Virginia appointed

[1]It seems that Massachusetts had agents travelling through the Southern Colonies before this. From the Memoirs of Josiah Quincy, Jr., we learn that in March and April, 1773, he visited William Hill, Esq. (a native of Boston), a merchant of Brunswick, N. C., whom he found "warmly attached to the cause of American freedom"; breakfasted with Colonel Dry, the Collector of Customs at Brunswick, whom he found to be a "friend to the Regulators"; dined in Wilmington "with Dr. Cobham with a select party"; dined again with Dr. Cobham "in company with Harnett, Hooper, Burgwin, Dr. Tucker," etc.; "dined with about twenty at Mr. William Hooper's"; spent the night with Mr. Cornelius Harnett—"the Samuel Adams of North Carolina (except in point of fortune)"—"Robert Howe, Esq.," being one of "the social triumvirate"; went to New Bern, Bath and Edenton; breakfasted with Colonel Buncombe; and spent two days crossing Albemarle Sound "in company with the most celebrated lawyers of Edenton."—(See North Carolina Colonial Records, Vol. IX, pp. 610 and 611.)

the 1st of June (1774)[1] as a day of "fasting, humiliation, and prayer." "The Royal Governor immediately dissolved the House of Burgesses; whereupon the members resolved themselves into a Committee," passed resolutions declaring in substance that "the cause of Boston was the cause of all," and took steps to induce the other Colonies to appoint delegates to the General Congress, which had been proposed by the Bostonians.

North Carolina's first Legislative Assembly elected by the people, which met in Newbern August 25, 1774, while declaring the allegiance of the people to the House of Hanover, denounced the Boston Port Bill as unconstitutional; approved the plan for a General Congress of the Colonies in September, and appointed delegates to the same.[2]

On the 5th of September, 1774, delegates from all the Colonies except Canada and Georgia met in Philadelphia and organized the first Continental Congress, assuming the style of the Twelve United Colonies.

The first act of this body was to recognize the equality of the Colonies by agreeing that in determining any question each Colony should have one vote; and this equality was preserved by subsequent Congresses, by the States under the Articles of Confederation, and, in

[1]The day when the Boston Port Bill was to go into effect.

[2]Sympathy for Boston was not confined to resolutions; it was manifested in a more practical way. Provisions and other necessaries were sent to that city from all the seaboard towns of the Southern Colonies, contributed in some instances by counties and settlements far removed from the coast.—(See North Carolina Colonial Records, Vol. IX, pp. 1,017, 1,018, 1,033, 1,081, 1,116, etc.).

And this sympathy inspired the Bostonians to consult the Continental Congress about the propriety of burning the town in "order to distress the military," taking care in the meantime to estimate "the value of the houses, etc., in order to raise a general contribution for the loss at some future time."—(See North Carolina Colonial Records, Vol. IX, p. 1,082).

the Senate, under the Constitution. Without it cooperation and Union would have been impossible.

Being little more than an advisory body, each delegation having no power to do more than it had been instructed to do by its own Colony, it appointed committees to take into consideration the rights and grievances of the Colonies, asserting by numerous declaratory resolutions what were deemed to be the inalienable rights of English freemen; pointed out to the people of the Colonies the dangers which threatened those rights; besought them to renounce commerce with Great Britain as the most effective means of averting those dangers: and advised all the Colonies to send delegates to a General Congress, to be held in the same place in May of next year.

In the meantime the British Government, mistaking the temper of the people of the other Colonies, and not realizing that "the cause of Boston was the cause of all," proceeded to other acts of folly. An act of Parliament, which received the King's assent March 1, restrained "the trade and commerce of the Provinces of Massachusetts Bay and New Hampshire, and the Colonies of Connecticut and Rhode Island and Providence Plantations in North America, to Great Britain, Ireland and the British Islands in the West Indies," and prohibited "such Provinces and Colonies from carrying on any fishery on the banks of Newfoundland or other places therein mentioned, under certain conditions and limitations."

This act not only affected the business of the fishermen, but it diminished the food supplies of the poor of Boston, and would have produced great distress in the town if contributions had not poured into it from other Colonies.

There was, therefore, a new incentive to comply with

the recommendation of the Congress of the preceding year; and accordingly delegates were appointed, and met in Philadelphia in May, 1775, all being represented except Canada and Georgia,[1] as before, although delegates from the latter arrived in July.

The powers of the delegates were not well defined; but reconciliation with England was to be kept steadily in view. On the day—April 5, 1775—when Messrs. Hooper, Hewes and Caswell were reappointed as North Carolina's delegates, they said in an address to the Provincial Convention: "One motive in this important measure, viz, a sacred regard for the rights and privileges of British America, and an earnest wish to bring about a reconciliation with our parent State, upon terms Constitutional and honorable to both, have hitherto actuated us." Previous to the meeting of this Congress open hostilities had broken out between Massachusetts and Great Britain (which probably stimulated Georgia to active cooperation), the battle of Lexington having been fought a few weeks before. The news of this battle spread rapidly and created intense excitement. Volunteers from the adjoining Colony of Connecticut and from what afterwards became Vermont, under the leadership of Col. Ethan Allen, seized upon the military posts of Ticonderoga and Crown Point, both on the west side of Lake Champlain, and White Hall at its southern extremity. The capture of Ticonderoga was effected on the 10th of May, the day on which the Congress met.

New England had now passed the Rubicon; a step had been taken which imposed on the other Colonies the necessity of choosing whether they would stand aloof and permit her to be crushed by Great Britain, or go to her relief with men and money. They chose the

[1]See Note C.

latter; the "cause of Boston" had become in a new and fearful sense "the cause of all." Their delegates in the Congress proclaimed a declaration of the reasons for the appeal to arms, passed a resolution to raise 20,000 troops, each Colony to furnish its quota on an agreed equitable basis; appointed, on the nomination of Massachusetts, George Washington, of Virginia, to be Commander-in-Chief of all the Colonial forces;[1] and made other preparations for defending the rights of the Colonies against what they considered unwarranted aggressions, actual or threatened, on their chartered rights. "We have not raised armies," they declared, "with ambitious designs of separating from Great Britain and establishing independent States. We fight not for glory or conquest. * * * We shall lay them (arms) down when hostilities shall cease on the part of the aggressors, and all danger of their being renewed shall be removed, and not before."[2]

But revolutions never go backward; and, in the light of history, this declaration of the representatives of the Colonies, if sustained by the several Colonies, meant independence or subjugation. It was not so regarded, however, in the Colonies; it was generally expected that the British Ministry would recede from their measures

[1]This was an effective piece of diplomacy. "The delegates from New England were particularly pleased with his election, as it would tend to unite the Southern Colonies cordially in the war."—Am. Mil. Biog., 325. But it was very offensive to the New England officers who had hitherto commanded in their military operations. Some of them refused to serve under "Continental officers," notably John Stark, Seth Warner, Artemas Ward, and Seth Pomeroy.

[2]On the 26th of April, 1775—a week after the battle of Lexington—the Legislature of Massachusetts, in session at Watertown, issued an "Address to the Inhabitants of Great Britain," which contained the following passage: "They" (the British Ministry) "have not yet detached us from our Royal Sovereign; we profess to be his loyal and dutiful subjects."—Dillon's Hist. Evidence, page 54.

of aggression, as they had so often done before. Accordingly the people in many of the Colonies were attempting, for months after General Washington took command at Boston, to bring about accommodations with the Royal Governors. In New Jersey the expectation of a reconciliation was not abandoned even as late as July 2, 1776, when her new frame of government was adopted.[1]

This Congress remained in session several months, and the delegates, obeying instructions from their several Colonies, declared, July 4, 1776 (though New York's assent was not obtained till July 9), that these Colonies renounced all allegiance to the British sovereign; and "that as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do."[2]

About the same time a plan of union was being drafted by a committee which had been appointed early in June. The result of their labors was the Articles of Confederation, which were submitted November 15, 1777, to the several State Legislatures, with a request for instruc-

[1]Since Massachusetts was the first Colony to resist Great Britain, it would be natural to suppose that she was first to propose independence; but she was behind the Southern Colonies, North Carolina taking the lead on April 12.

Bancroft obscures this disagreeable truth in the following passage in Volume VIII, page 449: "Comprehensive instructions reaching the question of independence without explicitly using the word, had been given by Massachusetts in January."

[2]Samuel Johnston, President of the North Carolina Assembly, in a letter to Messrs. Hooper, Hewes and Penn, dated April 13, 1776, said: "The North Carolina Congress have likewise taken under consideration that part of your letter requiring their instructions with respect to entering into foreign alliances, and were unanimous in their concurrence with the enclosed resolve, confiding entirely in your discretion with regard to the exercise of the power with which you are invested."—North Carolina Colonial Records, X, 495.

tions to their several delegations to approve and sign them.

They proposed in the preamble to establish "a Confederation and perpetual union between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia." They were also translated into the French language and sent with an address to the people of the British Provinces north of these States, the eleventh article providing that "Canada acceding to this Confederation and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this Union," and that other Colonies might be admitted by the assent of nine States.

On the 9th of July, 1778, the Articles were signed by the delegates from the New England States, New York, Virginia and South Carolina, New York's approval being on the condition that all the other States would approve. The delegates from New Jersey, Delaware and Maryland refused to sign because their States had not so instructed them, while North Carolina and Georgia were not represented. In the course of ten months, however, all the States except Maryland acceded to the Confederation. She stood aloof until March 1, 1781, the last year of active hostilities. Practically, therefore, the war was waged under the Continental Congress, which was little more than an advisory body, all really effective political power being in the several States. After the war was ended the Articles of Confederation, designed principally as the Constitution of a military government, were found unsuited to the new situation. The excitement of the war period and the necessity for extra exertion, which could be relied on as inducements

for each State to furnish its quota of requisitions to the general treasury, had now passed away; and the Legislatures of the several States were loath to burden their impoverished constituents with even the taxes necessary to discharge their own obligations, contracted in each State for the maintenance of its own military organization and the defense of its own soil. Hence there was inadequate provision for the debts and obligations of the Continental Congress and "the United States in Congress assembled."

This situation induced some of the ablest men in the States to advocate amending the Articles of Confederation so that the "United States in Congress assembled" could lay and collect taxes; and in a short time commercial jealousies of particular States, threatening the peace of the Union, indicated the necessity of other amendments. At last, after four years of uncertainty and discontent—counting from the definitive treaty of peace—a Convention was called, framed a new Constitution, and asked the States to ratify it, as we have seen.

This general survey of the relations of the States prepares us for a somewhat critical inquiry into the structure of the Union, which we will postpone to the next chapter, wherein we shall study the Declaration of Independence, the Articles of Confederation, and the Constitution.

NOTE A.

BRITISH TAXATION AND ITS EFFECTS ON THE COLONIES OF NORTH AMERICA.

"Taxation without representation" has always been held to have been the cause of the Revolutionary war; but familiar as we are with the difficulty of bringing the masses of the people to a realization of the heavy tax-burden imposed on them by the Federal Government, it is not easy to understand how the peoples of all the Colonies could have been induced to unite in measures of opposition to British taxation. To-day the average man who complains

if his direct tax to his State, county or town amounts to $25, will in the course of a year pay to his merchant $150 for his purchases, $75 of it going to the Federal treasury, if the goods are foreign, or into the pocket of the manufacturer, if they are domestic; and he will do this without a murmur, because the tax is concealed from him, being levied, as Turgot said, so as to pluck the goose without making it cry.

NOTE B.

The historians who have persistently asserted that Great Britain never "attempted directly or indirectly to derive a dollar of revenue" from these Colonies, have never satisfactorily accounted for the existence of Custom Houses at all the seaports. They tell us that the Custom House was moved from Boston to Salem; but the reader is left in the dark as to the duties of the officers. The truth seems to be that taxes were collected on certain imports, to which the importer raised no objection, because he reimbursed himself when he sold the articles to his customers, who, as now, did not see the tax "wrapped up" in the price. Hence it was easy to convince the great majority of the people, as it is now, that they were not taxed by tariff acts.

But import taxes were not all. In all the Royal Colonies there was an annual land tax called "quit rents," collected by the King's officers and turned over to the Royal Treasury. In 1729, when George II bought seven shares of North Carolina from the Lords Proprietors, he paid 5,000 pounds for the "quit rents" then in arrears. The custom was to sell land for a nominal sum—50 shillings per 100 acres and stipulate for this annual rent, which was usually four shillings per 100 acres, or nearly one cent per acre.

This was quite a heavy tax; it would amount to-day to about a quarter of a million of dollars in North Carolina. But there was no outcry against it.

NOTE C.

The New England Colonies sent Col. Ethan Allen twice into Canada, in the autumn of 1775, to observe the disposition of the people and enlist their cooperation, with apparently favorable results. In a letter from John Penn, one of North Carolina's delegates in the Continental Congress, to Thomas Person, dated February 12, 1776, he said: "The Canadians in general are on our side."—North Carolina Colonial Records, X, 448.

And about the time Penn wrote this letter the Congress sent Dr. Franklin, Samuel Chase and Charles Carroll on a mission to Canada; and in April invited Father John Carroll (Charles's cousin) to go with them. The latter was selected "because of his * * * religious standing among his brethren of the Catholic faith, and be-

cause of his knowledge of the French language, and of his influence with the Canadians."

We may never know the reasons why this mission failed. Possibly religious prejudices stood in the way of their cooperating with the Puritans of New England; possibly the defeat and expulsion from Canada of the expeditions under Arnold and Montgomery in December, 1775, had its influence; and possibly Hildreth gives the true reason (Vol. III, p. 33) in the following paragraph:

"A fifth act of Parliament, passed April 15, 1774, known as the Quebec Act, designed to prevent that newly acquired Province from joining with the other Colonies, restored in civil matters the old French law—the custom of Paris—and guaranteed to the Catholic Church the possession of its ample property, amounting to a fourth part or more of the old French grants, with the full freedom of worship," etc.

The absence of Georgia's delegates may be accounted for by remembering that she was farthest removed from the storm centre, and, therefore, less easily brought under its influence. Alden's Cyclopœdia (Art. Massachusetts) says: "From the beginning of her great struggle against oppression, Massachusetts had the active sympathy of her sister Colonies, who had far less cause for complaint than she." But there is danger of confounding sympathy for the suffering poor with sympathy for the "rebels"; the latter was a plant of slow growth in many of the Colonies.

As to Georgia's grounds for complaint against England, this Cyclopœdia (Art. Georgia) says: "It was acknowledged at the time, and the claim has since been substantiated beyond question, that the people of Georgia had no cause for personal or Colonial dissatisfaction with England during the exciting days that preceded the Revolution. The relations between the Colony and the home government had been wholly amicable, and none of the acts of oppression of which the New England Colonies particularly complained had been enforced against Georgia."

CHAPTER III.

THE DECLARATION OF INDEPENDENCE, THE ARTICLES OF CONFEDERATION, AND THE CONSTITUTION.

The Declaration, Etc.

The Declaration of Independence opens with a general proposition as to the right of "one people to dissolve the political bands," etc.

Applying this general truth to the case in hand, it proceeds with a general statement of the abuses which constrain "these Colonies" to "alter their former *systems* of government." Then, after detailing the particular abuses of which the Colonies complained, it declares that: "These United Colonies are, and of right ought to be, free and independent States; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is, and ought to be, totally dissolved," etc.

It recognized no government here except that of each Colony, and it warrants no inference that it contemplated any other government.

The Articles and the Constitution.

For the most satisfactory study of the Articles of Confederation and the Constitution, it is necessary that we compare them as we proceed.

Under the Articles, all powers granted by the States were to be under the direction of the Congress of the States—"the United States, in Congress assembled"[1];

[1] The enacting clause of every act of Congress—"Be it enacted by the Senate and House of Representatives of the United States in Congress assembled"—recognizes the truth that the Congress under the Constitution is a Congress of States.

under the Constitution, the powers granted were vested in three separate and independent departments—the Legislative, Judicial and Executive.

Under the Articles, the Legislature consisted of only one House, in which each State could cast only one vote; *under the Constitution*, the Legislature consists of two Houses, namely, the Senate, in which the equality of the States is preserved by each State's having two Senators, and the House of Representatives, in which each is represented according to its population, except that a State must be allowed at least one member however small its population may be.

Under the Articles, each State supported its own members; *under the Constitution*, they are supported out of the Federal treasury.

Under the Articles, the States bound themselves to collect and transmit to the Federal treasury the sums of money required of them, on an established apportionment, by the Congress; *under the Constitution*, the Congress is empowered to lay and collect taxes, duties, imposts, and excises; provided that all direct taxes shall be apportioned among the several States according to their representative population, and that all other taxes shall be uniform throughout the States.

Under the Articles, the "Committee of the States" executed the laws when the Congress was not in session; *under the Constitution*, the President of the United States executes the laws.[1]

[1] The oath of the President "to preserve, protect and defend the Constitution of the United States," was understood by Mr. Lincoln to be an oath to preserve the Union. In his first inaugural address he said: "You have no oath registered in Heaven to destroy the Government, while I shall have the most solemn one to 'preserve, protect and defend it.'" And this is the view of that oath presented to the youth of the Union by even so fair a writer as Montgomery.—Am. Hist., page 286.

Under the Articles, the Congress appointed all necessary officers, civil, military and judicial; *under the Constitution*, the President, by and with the advice and consent of the Senate—that is, the States, since in that body the States have "equal suffrage"—appoints all the officers except some inferior ones, whose appointment the Congress may vest in the President alone, in the Judges, or in the heads of departments, except also that the President is Commander-in-Chief of the army and navy,[1] and except also, as under the Articles, all officers of State troops furnished for the common defense, of and below the rank of Colonel, shall be appointed by the States.

Now let us compare the mutual covenants of the States to be found in both instruments; and then the delegations of power by the States to be found in both.

In the first, each State retained its sovereignty, freedom and independence, and every right, power and jurisdiction which it did not expressly delegate to the United States in Congress assembled[2]; *in the second*, all

[1] The following remarks by Mr. Hamilton in No. LXVII of the Federalist, intended to silence those who had objected to the creation of the office of President, which they had "inveighed against with less candor," and "criticised with less judgment" than any other provision of the Constitution, may amuse the reader:

"Calculating upon the aversion of the people to monarchy, they have endeavored to enlist all their jealousies and apprehensions in opposition. * * * To establish the pretended affinity, they have not scrupled to draw resources even from the regions of fiction. The authorities of a magistrate, in few instances greater, in some less, than those of a Governor of New York, have been magnified into more than royal prerogatives."

[2] Notwithstanding this clear language, of the meaning of which no school-boy could have any doubt, John Fiske, a representative of the culture of New England, says on page 94 of his Critical Period, etc., that by the Articles "the sovereignty of the several States was expressly limited and curtailed in many important particulars." And Mr. Fiske seems unconscious of the inconsistency of this im-

powers not delegated to the United States by the Constitution, nor prohibited by it to the States, were reserved to the States respectively, or to the people.

In the first, the States bound themselves under a firm league of friendship to labor for their common defense, the security of their liberties, and their mutual and general welfare, etc.; *in the second*, the object in view was declared to be to establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty, etc.

In the first, each State was to have one vote in determining all questions; *in the second*, the equal power of the several States was preserved in the Senate, wherein "equal suffrage" is secured to each, of which it can not be deprived without its consent.

In both, the citizens of each State were to be entitled to all privileges and immunities of citizens in the several States.[1]

In both, full faith and credit should be given in each State to the public records of the other States.

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plied admission of the existence of "the sovereignty of the several States," with the assertion on the same page (94) that "in severing their connection with England these Commonwealths (*sic*) entered into some sort of union which was incompatible with their absolute sovereignty taken severally."

But after John A. Andrew, the Governor of Massachusetts, announced the doctrine, in the Altoona Address, that the people of the States are "the subjects of the National Government," political vagaries in that quarter should not surprise us.

[1]On September 25, 1898, one hundred free citizens of the State of Alabama reached Virden in the State of Illinois, having been employed to work in coal mines in that locality; but threats of shooting them drove them back to Alabama. Again, on October 12, of the same year, two hundred free citizens of Southern States went to the same place for the same purpose; but they were met by rifle shots instead of threats. In both instances Governor Tanner, of Illinois, declined to insure to these people the enjoyment of the privileges and immunities of free citizens of Illinois.

In both, persons charged in one State with treason,[1] felony or other crime, fleeing into another State, were to be delivered up on demand, etc.

In the second, slaves and apprentices—persons bound to service for a term of years—in one State, fleeing into another State, were to be delivered up, etc.[2]

In both, neither the United States nor any one of them should grant any title of nobility.

In the first, no United States officer or State officer should accept any present, office, etc., from any king, prince, or foreign State; *in the second*, no United States officer should accept such present, etc., without the consent of Congress, nor should any person holding any office under the United States be a member of either House of the Congress during his continuance in office.[3]

[1] North Carolina's "carpet-bag" Constitution defines treason against the State.

[2] A clear understanding of the infractions of the Constitution by certain States requires us to bear in mind that no power was delegated to the Congress of the Confederation to enforce the mutual covenants of the States respecting their public records, "the privileges and immunities of citizens," the restoration of criminals, or the restoration of slaves or servants provided for in the Ordinance for the government of the Northwest Territory; and that no such power was delegated in the Constitution over these covenants or over that respecting fugitives from labor. In the language of the Supreme Court in Kentucky v. Ohio, 24 Howard, 66 (commenting on the Act of February 12, 1793, prescribing the "duty" of the Governor of a State when a demand is made for a fugitive from justice), the security for the performance of these covenants is "the moral obligation" of the States. *See Note D.*

[3] Many officers who served in the armies which subjugated the Southern States, and were afterwards placed on the retired list with comfortable salaries, have served in both Houses of Congress and drawn their salaries as other members; and many gentlemen have served in both Houses, drawing their salaries regularly, whose pensions were affording them a comfortable living. Thus in one case the letter, and in the other the spirit of the Constitution has been disregarded; it was not intended that a pensioner should sit in the Legislature and assist in framing pension laws.

In both, no State was to enter into any treaty, alliance, etc., without the consent of the Congress.

In both, no two or more States were to form any alliance between themselves without the like consent of the States in Congress.

In both, no State, without the like consent, should keep troops or war vessels in time of peace.

In the first, each State was to keep up a well-organized militia; *in the second*, the Congress was forbidden to infringe the right of the people to keep and bear arms.

In the first, no State was to lay any duty upon foreign imports if it conflicted with any treaty; *in the second*, no State was to lay any duty on imports or exports, without the consent of the Congress, except what might be necessary for executing its inspection laws.

In the first, no State was to grant letters of marque and reprisal without the consent of the Congress, unless it were invaded; *in the second*, no State was to grant such letters.

In both, no State was to engage in war without the like consent, unless invaded or threatened with invasion.

In the first, each State was to furnish the troops called for by the Congress, arm and equip them at the expense of the United States; *in the second*, the States conferred on the Congress the power to raise armies, etc.

In the first, the States were pledged to pay all the debts contracted by the Continental Congress; *in the second*, they were pledged to discharge all the pecuniary obligations entered into by the United States previously to the establishment of the more perfect Union.

In the first, it was agreed that Canada might come into the Union if she chose to do so, and that other Colonies or Provinces might do so by the consent of nine States; *in the second*, it was agreed that Congress might admit new States into the Union, provided that

it should not interfere with the boundaries of any State without its consent.[1]

In the first, each State was to abide by the decisions of Congress on all matters which they had entrusted to it, the Articles of Confederation were to be inviolably observed by every State, and the Union was to be perpetual; *in the second*, the Constitution, the Constitutional acts of Congress, and all treaties made or to be made were to be the supreme law of the land, to support which all judicial, executive and legislative officers of the several States should be bound by oath or affirmation—an oath which the actual administration of the Government has rendered practically meaningless; but which, when it is understood that the "moral obligation of the States" is the only Constitutional security for the faithful observance of the mutual covenants of the States, is as necessary and is as pregnant with meaning as the oath of the President.[2]

And *in the first*, no alteration should be made in the Articles without the consent of every State; *In the second*, two methods of amending the Constitution were provided. One was that two-thirds of both Houses might propose amendments, which, being ratified by three-fourths of the States, should be valid parts of the Constitution[3]; and the other was that on the application

[1] West Virginia was erected into a State within the boundaries of Virginia without the consent of the latter.

[2] There is no intimation here that the *Government* was to be supreme; and the oath of the State officer to support the Constitution was no more an oath of allegiance, as is implied in the Fourteenth Amendment, than his oath to support his State Constitution is an oath of allegiance to his State. And even if it were, his oath could not bind his constituents.

[3] The reader will note that "two-thirds of both Houses" did not mean two-thirds of the bodies which proposed the last three amendments; and that the ratifications of the States were to be without any fear of confiscation or of prolonged military despotism.

of the Legislatures of two-thirds of the States, the Congress should call a Convention of the States for proposing amendments, which should likewise become parts of the Constitution when ratified by three-fourths of the States.

In the first, no member of Congress could, while a member, hold any office under the United States; *in the second*, no Senator or Representative can, during the time for which he was elected, be appointed to any civil office under the United States, which shall have been created, or the emoluments whereof shall have been increased during such time.

In the second, each State obligated itself not to pass any bill of attainder, *ex post facto* law, or any law violating the obligation of contracts.

In the second, each State obligated itself not to lay any tax on tonnage without the consent of Congress.

And *in the second*, the United States obligated themselves to guarantee to each other a republican form of government; to defend each other in case of invasion; and, if called on by the Legislature or by the Governor (when the Legislature can not be convened), to protect each other against domestic violence.

Such are the mutual covenants; and now we will compare the powers delegated by the States in the two instruments, besides the few already mentioned.

In the first, the United States in Congress assembled, nine States consenting, had the sole and exclusive right and power of determining on peace and war, except in the cases mentioned already—actual invasion, etc.; *in the second*, the same power, with the same exception, is granted to the Congress.

In the first, the Congress had the like power to send Ambassadors; *in the second*, the President, by and with the advice and consent of the Senate (or States, since

the States have equal suffrage in that body), appoints Ambassadors.

In the first, the Congress had the like power to receive Ambassadors; *in the second*, the President alone receives Ambassadors.

In the first, the Congress had the like power to make treaties, with a proviso; *in the second*, the President, by and with the advice and consent of two-thirds of the Senators, makes treaties.

In both, the Congress is empowered to make rules concerning captures on land and water.

In both, exclusive power was delegated to the Congress to grant letters of marque and reprisal in time of peace.

In both, the Congress was empowered to provide for the punishment of piracies and felonies committed on the high seas.

In the first, disputes between States were to be settled, in the last resort, by the Congress; *in the second*, such disputes are to be settled by the United States courts.

In the first, disputes about titles to land granted by different States were to be decided by the Congress; *in the second*, such disputes are to be settled by the Federal Courts.

In the first, the Congress had the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective States; *in the second*, the Congress has the power to coin money, regulate the value thereof, and of foreign coin.

In both, the Congress was granted power to fix the standard of weights and measures.

In the first, the Congress was empowered to regulate the trade and manage all affairs with the Indians, with

a proviso; *in the second*, the Congress has the power to regulate commerce with foreign nations, between the States, and with the Indian tribes.

In the first, the Congress had power to establish or regulate post-offices from one State to another; *in the second*, the Congress has power to establish post-offices and post roads.

In the first, the Congress had power to appoint all naval officers and the officers of the land forces, except regimental officers; *in the second*, these officers are appointed by the President, by and with the advice and consent of the Senate, with certain exceptions made by the Congress, as before mentioned.

In both, the Congress was empowered to make rules for the government of the land and naval forces.

In both, the Congress was empowered to borrow money on the credit of the United States.

In the first, the Congress was empowered to emit bills on the credit of the United States; *in the second*, no such power was granted, the proposition to grant it being deliberately stricken out from the final draft of the Constitution as submitted to the Convention.[1]

In both, the power was granted to provide and maintain a navy.

Thus we have gone over the powers delegated to the United States in Congress assembled. and those in the Constitution relating to similar subjects. There are a few others in the Constitution, some of them made necessary by the Constitution of the Congress. They are as follows:

[1] On the motion to strike out, the States voting in the affirmative were New Hampshire, Massachusetts, Connecticut, Pennsylvania, Delaware, Virginia, North Carolina, South Carolina, and Georgia, 9; and those voting in the negative were New Jersey and Maryland, 2.—El. Deb., I, 245.

The Senate is made a court to try impeachments, a two-thirds vote being necessary to conviction.

The Congress may alter, amend or substitute others for State laws regulating the times, places and manner of holding elections for Senators and Representatives, except as to the places of choosing Senators.[1]

For the different naturalization laws of the States, Congress was authorized to substitute one uniform rule; and to do the like with reference to bankruptcies.

It can provide for punishing counterfeiters of the securities and current coin of the United States.

It can promote inventions and discoveries, etc.

It can provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions.

It can provide for organizing, arming, and disciplining the militia, and for governing such parts of them as may be employed in the service of the United States.

It is empowered to dispose of the public lands which were ceded to the United States after the adoption of the Articles of Confederation, and all other property belonging to the United States, and to make all needful rules and regulations respecting the same.

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[1] The reader will be interested in the following remarks made by Gen. William R. Davie in defense of this provision of the Constitution. He had been a member of the Convention which framed the Constitution; was now a member of North Carolina's Convention which rejected it; and was an ardent supporter of it.

Attempting to meet the objections of his opponents (whom subsequent events have proved not to have been wholly devoid of the spirit of prophecy), he said:

"Mr. Chairman, a consolidation of the States is said by some gentlemen to have been intended. They insinuate that this was the cause of their giving this power of elections"—times, places, and manner. "If there were any seeds in this Constitution which might, one day, produce a consolidation, it would, sir, with me, be an insuperable objection."—Elliot's Debates, Volume IV, page 58.

It can exercise exclusive legislation over such district as may, by cession of particular States and the acceptance of Congress, become the seat of government, and also over all places purchased by the consent of the Legislature of the State in which the same may be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.

And it may make all laws which may be necessary and proper for carrying into execution all the powers granted by the States in the Constitution.

To these provisions must now be added those which were designed to shield the States and the people against the exercise of objectionable and usurped powers. Briefly stated they are as follows:

1. The importation of African slaves could not be prohibited till 1808.

2. The privilege of the writ of *habeas corpus* shall not be suspended unless the public safety may require it in case of rebellion, invasion, etc.

3. No bill of attainder or *ex post facto* law shall be passed.

4. No capitation or other direct tax shall be laid, except in proportion to the representative population of the several States.

5. No tax shall be laid on any article exported from any State.

6. No preference shall be given to the ports of any one State.

7. No money shall be appropriated for raising or supporting armies for a longer period than two years.

8. No punishment for treason, which is defined to be a levying of war against the United States, adhering to their enemies, etc., shall work corruption of blood or forfeiture except during the life of the traitor.

9. No law shall be passed interfering with the religion of the people, or abridging the freedom of speech or of

the press; or the right of the people peaceably to assemble and petition for a redress of grievances.

10. No soldier shall be quartered in any man's house in time of peace against his will, nor in time of war, but in a manner prescribed by law.

11. Unreasonable searches and seizures are forbidden, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized.

12. No person shall be tried for a capital or other infamous crime, unless on an indictment or presentment of a grand jury, except in the army or navy; nor shall any person be twice put in jeopardy of life or limb; nor shall any person be compelled in a criminal case to be a witness against himself; nor shall he be deprived of life, liberty or property without due process of law; nor shall his property be taken from him without just compensation.

13. Every person accused of a crime shall enjoy the right to a speedy trial, by an impartial jury of the State and District in which the offense is alleged to have been committed, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defense.[1]

[1] The treatment of Major Henry Wirtz will impress these two provisions of the Constitution on the reader's memory. He was not "in the army or navy"; he was not tried on "an indictment or presentment of a grand jury"; he was tried in Washington City by a court martial organized to convict, instead of "by an impartial jury of the State and District" in which the alleged offense was committed; he had no "compulsory process for obtaining witnesses in his favor," and those who volunteered to go as witnesses were frightened away by threats of arrest; and he was "deprived of life" "without due process of law."

14. The right of trial by jury shall be preserved in suits where the value in controversy shall exceed $20, etc.

15. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

16. The judicial power shall not extend (as was provided for in the Constitution as it was adopted) to any suit in law or equity against one of the United States, prosecuted by citizens of another State, or by citizens or subjects of a foreign State.

17. And since a well-regulated militia is necessary to the security of a "free State," the right of the people of a State "to keep and bear arms" shall not be infringed by the Federal Government.

Thus it appears that the States delegated in the Constitution only two important powers not found in the Articles of Confederation, namely, that to lay and collect taxes, etc., and that to regulate commerce; and that the States agreed to forego no really important power except that to replenish their treasuries by taxes on imports.

And it also appears that the delegation of what are called "sovereign powers" in the Constitution—foreign intercourse, war, etc.—is no stronger evidence of a delegation of sovereignty than the delegation of them in the Articles was;[1] and on the face of both instruments

[1] This truth has been hidden from their readers by almost all modern political writers in the Northern States. One of the most respectable of them, John Fiske, does this on pages 208 and 209 of his *Civil Government in the United States*, where he steps from the Continental Congress to the Congress of the Constitution, utterly ignoring the Congress of the Confederation. He does the same on page 243, where he says that "from 1776 to 1789 the United States *were* a Confederation; after 1789 *it was* a Federal Nation" (italics and "it" his). Then, apparently adopting Mr. Greeley's view that

the "sovereignty, freedom, and independence" of each State were left unimpaired. There is not a syllable to warrant the contrary claim.[1]

Now let us, in conclusion, point out the important powers belonging to the several sovereign States which they retained:

1. The State was the heir of all property belonging to one of its citizens—man, woman, or child—who died without other heirs.

2. The State could condemn for public use any land or other property in its borders.

3. The State could punish its citizens for treason[2] (See Constitution of the U. S., Art. IV, sec. 11, clause 2), felony or other crimes against the peace and dignity of the State.

4. The State could provide for the probate of deeds,

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the States were entrapped when they adopted the Constitution, he says: "The passage from plural to singular was accomplished, although it took some people a good while to realize the fact."

And even "the great expounder," Mr. Webster, confounded the Continental Congress with the Congress of the Confederation. In his speech to the young men of Albany, N. Y., May 28, 1851, he said: "And you, my young friends of Albany, if you will take the pains to go back to the debates of the period, from the meeting of the first Congress, in 1774, I mean the Congress of the Confederation, to the adoption of the present Constitution, and the enactment of the first laws under it," etc.

[1] Mr. Madison, in the Federalist, No. XL, replying to those who asserted that the Convention in framing the Constitution had not kept in view the *fundamental principles* of the Articles, says: "I ask, what are these principles? Do they require, that in the establishment of the Constitution, the States should be regarded as distinct and independent sovereignties? They are so regarded by the constitution proposed."

[2] The power to punish for treason was destroyed by the Federal Government in 1861-'65; since then many persons guilty of it have been rewarded for it by that Government; and it is now proposed to place them on the pension rolls at the expense, in part, of the people of the Southern States.

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conveyances, powers of attorney, and wills, and enforce compliance with their terms.[1]

5. The State could punish one of its citizens for any trespass, assault, libel, or any other offense committed by him against the person or the property or the reputation of another citizen.

6. The State could establish and enforce relations between husband and wife, parent and children, employer and employee, and corporations and the people.

7. The State could provide for the education of the children of its citizens, the care of the unfortunate deaf, dumb, blind, insane, and helpless poor.

8. The State could exclude undesirable foreigners from its borders, and its right to do so was never delegated to the Congress of the United States.

9. The State could make gold and silver coin a tender in the payment of debts. This it never surrendered, nor did it delegate to the Congress a concurrent power.

10. The State could determine the qualifications of electors and of public officers. And, in short,

11. The State reserved to itself those powers which in the words of Mr. Madison (Federalist XLV) "extend to all the objects, which, in the ordinary course of affairs, concern the lives, liberties and properties of the people; and the internal order, improvement and prosperity of the State."

With the Declaration of Independence, the Articles of Confederation, and the Constitution thus set before him, the reader is prepared to judge for himself, without respect to great names, whether the reasoning in the following chapters is founded on truth or error.[2]

[1] The Stamp Act of June 13, 1898, which is a substantial reenactment of the law of June 30, 1864, nullifies State laws regulating the certification and the validity of contracts, conveyances, etc., unless a Federal revenue stamp be attached to each one; and it does this without any expressed or implied power delegated in the Constitution.

[2] See Note E.

NOTE D.

Among the bills passed by the Congress during its first four years, without any unquestioned Constitutional authority, were the following:

1. To take charge of river pilots in the several States, and prescribe their duties.
2. To regulate contracts between merchant seamen and their employers.
3. To establish a United States Bank.
4. To apportion members of Congress among the States after the census of 1790. This was vetoed by the President.
5. To declare what coins should be legal tender.
6. To prescribe the "duty" of the Governor of a State to which a fugitive from justice has fled.
7. To prescribe the duties of magistrates of counties, cities and towns whenever a fugitive from labor should be brought before them by the person claiming his labor.

It was claimed that the first and second of these fell under the power to regulate commerce; that the third fell under the power to make all laws which should be necessary and proper for carrying into execution the power to collect taxes and to appropriate them; that the fifth fell under the power to regulate the value of coins (although the right of each State to make gold and silver coins a tender for a debt was recognized); and that the sixth and seventh fell under—nobody knows what power.

To the claim regarding the second it may be objected that, if it is valid, Congress can regulate the wages of teamsters engaged in interstate commerce; to that regarding the fifth it may be objected that, if Congress can declare what shall be legal tender, it can declare that gold and silver coins *shall not* be a legal tender, and thus nullify the power of the several States; to that regarding the sixth and seventh it may be objected that, if Congress can prescribe the duties of the executive and judicial officers of a State, the State Governments are little more than agents to carry out the will of the Congress; and in regard to all these claims it may be objected that, if they are valid, it was useless to place any enumeration of powers in the Constitution.

NOTE E.

It is important, in view of the shameful perversion of truth since 1861, that it be impressed on the mind that the first ten amendments were added to the Constitution for the purpose of shielding the people against *Federal* encroachments on their rights, and that they have nothing to do with State or individual encroachments. This

is important because ignorance and fanaticism have not labored in vain.

Among the first authoritative expositions (from the standpoint of ignorance) was a resolution passed by the House of Representatives on the 17th of March, 1862, instructing a committee to inquire into the arrest of two fugitive slaves in the District of Columbia, "and whether the arrest and imprisonment is not a direct violation of that provision of the Constitution (the Fifth Article of Amendments), which says that no person shall be deprived of his life or liberty without due process of law." Afterwards this perversion of truth became generally acceped as truth. and all these restraints on the Federal Government were thought to be restraints on the States or the people.

And even the Washington Post, Administration organ, commenting on a provision in the new Constitution of Mississippi, which denies a jury trial to a certain class of criminals, copies the Fifth and Sixth Amendments of the Federal Constitution, and then says: "The Post does not profess to be learned in the law and will not presume to determine whether or not this Louisiana innovation is in harmony with the fundamental law of the Republic. But to a mind unversed in the intricacies of judicial interpretation it seems that the words 'all criminal cases' in the Federal Constitution must include other crimes than those which are punishable, under the statutes, 'by imprisonment at hard labor.' "—Copied in Wilmington, N. C., Messenger, October 23, 1898.

It is equally important that we do not let the fact escape us that in nearly all our political literature the Constitution has been supplanted by "emergencies," "new conditions," "the march of nations," etc.

CHAPTER IV.

"ONE PEOPLE."

Familiar as we now are with the Declaration of Independence, the Articles of Confederation, and the Constitution, we are prepared for an intelligent discussion of the unwarranted and vicious doctrines which some seventy years ago began to supplant in some sections of the Union the true principles of the Federal Government. And strangely enough the first effective impulse given to them was in the States which theretofore had been the most consistent and strenuous supporters of the sovereignty, freedom and independence of the several States.

It was in New England; and it is one of the curious coincidences of history that her intellectual forces began to organize for the denial of the teachings of their fathers about the time there was a consolidation of sentiment in the Southern States against the injustice of protection to New England's manufacturers, leading in one State to the adoption of measures threatening the peace of the Union.

The substance of their new doctrines was that the people of the several States had consolidated themselves into a sovereign Nation, and that the people of one State bear about the same relation to the Nation that those of a county bear to their State.

The two most brilliant luminaries (of whom the lesser lights became as mere reflections) who championed this doctrine, were Joseph Story and Daniel Webster.

The celebrated speech of the latter, delivered in the Senate on the 16th of February, 1833, and the former's Commentaries on the Constitution, published the same year, became the accepted exposition of the Constitu-

tional relations of the States in their section of the Union. Mr. Webster's speech was kept before the youth of the country in school readers, speakers, political addresses, etc.; and Judge Story's Commentaries, adopted as a text-book in many seminaries of learning, even in the Southern States, polluted the fountains of political truth in all sections.

The "one people" doctrine, founded by both of them on substantially the same basis, may be conveniently summarized as follows:

1. "None of the Colonies before the Revolution were, in the most large and general sense, independent, or sovereign communities. They were * * * subjected to the British Crown. Their powers and authorities were derived from, and limited by their respective charters. * * * They could make no treaty, declare no war, send no ambassadors, regulate no intercourse or commerce, nor in any other shape act as sovereigns in the negotiations usual between independent States. In respect to each other, they stood in the common relation of British subjects. * * * If in any sense they might claim the attributes of sovereignty, it was only in that subordinate sense, to which we have alluded, as exercising within a limited extent certain usual powers of sovereignty. They did not even affect local allegiance.

2. "The Colonies did not severally act for themselves, and proclaim their independence. It is true that some of the States had previously formed incipient governments for themselves; but it was done in compliance with the recommendations of Congress. Virginia, on the 29th of June, 1776, by a Convention of Delegates, declared 'the Government of this Country,[1] as formerly exercised under the Crown of Great Britain, totally dis-

[1] Note the use of the word "country."

solved'; and proceeded to form a new Constitution of Government. New Hampshire also formed a Government in December, 1775, which was manifestly intended to be temporary, 'during,' as they said, 'the unhappy and unnatural contest with Great Britain.' New Jersey, too, established a frame of Government, on the 2d of July, 1776; but it was expressly declared that it should be void upon a reconciliation with Great Britain. And South Carolina, in March, 1776, adopted a Constitution of Government; but this was, in like manner, 'established until an accommodation between Great Britain and America could be obtained.'

3. "The Declaration of Independence of all the Colonies was the united act of all. It was 'a Declaration by the Representatives of the United States of America, in Congress assembled'; 'by the delegates appointed by the Good People of the Colonies,' as in a prior Declaration of Rights they were called. It was not an act done by the State Governments, then organized; nor by persons chosen by them. It was, emphatically, the act of the whole People of the United Colonies, by the instrumentality of their Representatives, chosen for that, among other purposes. It was an act, not competent to the State Governments, or any of them, as organized under their Charters, to adopt. Those Charters neither contemplated the case, nor provided for it. It was an act of original, inherent Sovereignty, by the People themselves, resulting from their right to change the form of Government, and to institute a new Government whenever necessary for their safety and happiness. So the Declaration of Independence treats it. No State had presumed, of itself, to form a new Government, or to provide for the exigencies of the times, without consulting Congress on the subject; and when they acted, it was in pursuance of the recommendation of Congress.

It was, therefore, the achievement of the whole for the benefit of the whole. * * * The Declaration of Independence has, accordingly, always been treated as an act of Paramount and Sovereign authority, complete and perfect, *per se.*

4. "The separate Independence and individual Sovereignty of the several States were never thought of by the enlightened band of patriots who framed this Declaration. The several States are not even mentioned by name in any part of it, as if it was intended to impress the maxim on America, that our freedom and independence arose from our Union, etc.

5. "We have seen that the power to do this act—declare Independence—was not derived from the State Governments; nor was it done generally with their cooperation. The question, then, naturally presents itself, if it is to be considered as a National act, in what manner did the Colonies become a Nation, and in what manner did Congress become possessed of this National power? The true answer must be that as soon as Congress assumed powers, and passed measures, which were, in their nature, National, to that extent, the People, from whose acquiescense and consent they took effect, must be considered as agreeing to form a Nation."[1]

6. "The Constitution is not a league, confederacy, or compact beween the people of the several States in their sovereign capacities; but in the ratifying ordinances of Massachusetts and New Hampshire the truth is recognized that 'the people of the United States' entered 'into an explicit and solemn compact with each other.' It is the People, and not the States, who have entered into the compact; and it is the People of all the United States * * * a *social compact.* No man can get over

[1] Elliot's Debates, Vol. I. pages 163-67.

the words, 'We, the People of the United States, do ordain and establish this Constitution.' These words must cease to be a part of the Constitution * * * before any human ingenuity or human argument can remove the popular basis on which that Constitution rests, and turn the instrument into a mere compact between sovereign States. * * * The Constitution, Sir, regards itself as perpetual and immortal. It seeks to establish a Union among the people of the States," etc.—Mr. Webster's speech in the Senate, February 16, 1833.

Every claim of these authorities is negatived by the universally accepted definition of the word "State" among English-speaking people before and during our Revolutionary period; but if the reader hesitates to admit that a mere definition can weaken a position assumed by such distinguished statesmen, let us examine the propositions they lay down and the historical evidence on which they rely. We will follow the foregoing order.

1. Nobody ever contended that the Colonies were, *in any sense*, "independent or Sovereign communities," or that they affected "local allegiance"; and the apparent pretense that such a claim had ever been set up tends, if not so designed, to befog the whole subject.

But *it is true* that each one of the Colonies, after July 4, 1776, did "affect local allegiance." For example, the Constitution of Massachusetts, adopted in 1780, required every person chosen to an office, whether civil or military, to swear "true faith and allegiance" to the Commonwealth; which oath was not changed when the Constitution was amended in 1822. The same oath was required by New Hampshire in 1792, and was not stricken out of her Constitution in 1852, when it was amended.

2. It would have been suicidal for any one of the Colonies to declare itself independent of Great Britain, or even for half of them to do so. Cooperation was necessary to success. But the contention that the Declaration was the work of the Representatives of "one people" who possessed "original, inherent Sovereignty," while in their separate Colonies temporary governments had been adopted, which were to be abandoned on a reconciliation with the mother country, is self-destructive. How all the people could be "Sovereign," while those in each Colony were subject to the Crown of Great Britain, their relations being only temporarily suspended, is beyond human comprehension.

The truth about the relations and the actions of the separate Colonies is clearly set forth by Mr. Jefferson in his writings, Volume I, page 10 (copied in Elliot's Debates, Vol. I, pp. 56 *et seq.*), as follows:

"In Congress, Friday, June 7, 1776. The delegates from Virginia moved, in obedience to instructions from their constituents,[1] that the Congress should declare that these United Colonies are, and of right, ought to be free and independent States, etc.

"It was argued by Wilson (Pennsylvania), Robert R. Livingston (New York), E. Rutledge (South Carolina), Dickinson (Delaware), and others, * * * that the people of the middle Colonies (Maryland, Delaware,

[1] Judge Story and other consolidationists have confused the minds of their readers by irrelevant distinctions between the *people* of a State and the *government* of a State. The "constituents" of Jefferson, Lee, etc., were not living in a state of anarchy; they had a government; and whether it was modeled on that of Great Britain or on the pure democracy of Athens, was of no consequence.

Another Massachusetts writer makes a distinction between the State (the soil, climate, etc.), and its inhabitants, thus: "The Constitution was not adopted by the State, but by the people dwelling in the State."—William Sullivan's Political Class-Book, revised by George B. Emerson (1831).

Pennsylvania, the Jerseys, and New York) were not yet ripe for bidding adieu to British connection, but that they were fast ripening, etc. That some of them had expressly forbidden their delegates to consent to such a declaration, and others had given no instructions, and consequently no power to give such assent; that, if the *delegates of any particular Colony had no power to declare such Colony independent*, certain they were, the others could not declare it for them; the Colonies being as yet perfectly independent of each other; that the Assembly of Pennsylvania was now sitting above stairs; their Convention would sit in a few days; the Convention of New York was now sitting; and those of the Jerseys and Delaware counties would meet on Monday following; and it was probable these bodies would take up the question of independence, and would declare to their delegates the voice of their State.

"That, if such a declaration should now be agreed to, these delegates must retire, and possibly their Colonies might secede from the Union[1] * * * It appearing in the course of these debates that the Colonies of New York, New Jersey, Pennsylvania, Delaware, Maryland and South Carolina[2] were not yet matured for falling from the parent stem, but that they were fast advancing to that state, it was thought most prudent to wait a while for them, and to postpone the final decision to July 1; but that this might occasion as little delay as possible, a committee was appointed (June 11) to prepare a Declaration of Independence. The committee

[1] Since the Colonies were "as yet perfectly independent of each other," it is not clear how any one of them could "secede from the Union."

[2] "Maryland and South Carolina had joined in the Declaration of Independence without any crying grievances of their own."—Fiske's Critical Period, etc., page 92.

were John Adams, Dr. Franklin, Roger Sherman, Robert R. Livingston and Thomas Jefferson. Committees were also appointed, at the same time, to prepare a plan of Confederation of the Colonies, and to state the terms proper to be proposed for foreign alliances. * * *

"On Monday, the 1st of July, the House resolved itself into a Committee of the Whole, and resumed the consideration of the original motion made by the delegates of Virginia, which being again debated through the day, was carried in the affirmative by the votes of New Hampshire, Connecticut, Massachusetts, Rhode Island, New Jersey, Maryland, Virginia, North Carolina, and Georgia. South Carolina and Pennsylvania[1] voted against it. Delaware had but two members present, and they were divided. The delegates from New York declared they were for it themselves, and were assured their constituents were for it; but that their instructions having been drawn near a twelvemonth before, when reconciliation was still the general object, they were enjoined by them to do nothing which should impede that object. They, therefore, thought themselves not justifiable in voting on either side. * * * Mr. Edward Rutledge, of South Carolina, then requested the determination (in the House) might be put off to the next day, as he believed his colleagues, though they

[1] In an address to the people of Pennsylvania, James Wilson, one of the delegates from that State, said: "When the measure" (the Declaration of Independence) "began to be an object of contemplation in Congress, the delegates of Pennsylvania were *expressly restricted* from consenting to it. My uniform language in Congress was, that I never would vote for it, contrary to my instructions. I went further, and declared that I never would vote for it, without your authority. * * * When your authority was communicated by the conference of Committees from the several counties of the State, I then stood upon very different grounds: I declared so in Congress. I spoke and voted for the measure."

disapproved of the resolution, would then join in it for the sake of unanimity[1] * * * In the meantime, a third member had come post from the Delaware counties, and turned the vote of that Colony. * * * Members of a different sentiment attending that morning from Pennsylvania also, her vote was changed, etc., so that the whole twelve Colonies, *who were authorized to vote at all*, gave their voices for it; and within a few days (July 9th) the Convention of New York approved of it, and thus supplied the void occasioned by the withdrawing of her delegates from the vote.

"Congress proceeded the same day to consider the Declaration of Independence."

There seems, therefore, no basis for the assertion that "the Colonies did not severally act for themselves." And as to their having no governments, Jefferson's testimony is decisive.

3. The Declaration of Independence *was "an act done by * * * persons chosen by" "the State Governments"*; and the doctrine of *"qui facit per alium facit per se,"* applies here as it does to the responsibility of any other employer.

They were not chosen, it is true, by the Charter Governments—it has never been pretended that they were; they were chosen in each Colony by legislative bodies elected by the people for this and other purposes. In North Carolina, for example, John Harvey, Moderator

[1] It appears that the delegates from Delaware and South Carolina had no positive instructions, but were permitted to exercise their own judgment in emergencies like this. Those from South Carolina, it is probable, were hurried into harmony by Sir Henry Clinton's invasion of their State. It has been said by respectable authorities that the course of these as well as of other delegates was determined by the repulse (June 28) of Sir Henry's army and Sir Peter Parker's fleet; but it is not probable that news could have gone from Charleston to Philadelphia in six days.

of the body which had, in 1774, elected Joseph Hewes, William Hooper and Richard Caswell to represent the Colony in the Continental Congress, issued a notice to the people of the Colony, in February, 1775, asking them to elect delegates to represent each town (borough) and county in a Convention. The Convention met in Newbern, April 4, 1775, the same day on which the Colonial Assembly met, many gentlemen being members of both bodies. Governor Josiah Martin soon dissolved the Colonial Assembly, and the Colony never again saw a legislative body meet under the direction of a Royal Governor; the people were thenceforth governed by themselves; and although they had no written Constitution till December, 1776, it would be as absurd to say that they had no Government during this interval as it would to assert the same thing of England, which has never had a written Constitution. On August 21, 1775, another legislative body, composed of 184 members, met in Hillsboro, appointed a Provincial Council for the State, a District Committee for each District, County and Town Committees for each county and town, raised two regiments of 500 men each, emitted $125,000 in bills on the credit of the State, passed an act empowering the Provincial Council to enforce an oath of allegiance on suspects,[1] and did every other thing which any government could have done. The next legislative body met at Halifax on the 4th of April, 1776, and among other things it did, it passed unanimously the following resolution: "That the Delegates from this Colony in the Continental Congress be em-

[1] Thus "affecting local allegiance" nearly a twelvemonth before the date of the Declaration of Independence. "They" (the committees of the counties), says Wheeler "had a test oath to which all persons had to subscribe, which was paramount to the oath of allegiance to the English Crown."—Wheeler, Series I, Chapter IX.

powered to concur with the delegates from the other Colonies, *in declaring Independence* and *forming foreign alliances;* reserving to this Colony the sole and exclusive right of forming a constitution and laws for this Colony."[1]—Colonial Records, X, 512.

4. "The several States are not even mentioned by name in any part of" the Declaration for the very reason which caused them to be stricken out of the Constitution after "We, the people"; it was not known by the committee appointed June the 11th to draft the Declaration whether all the Colonies would approve it; and the hope that Canada would ultimately "join in the measures" of the thirteen Colonies rendered it improper to name them and leave her out. This omission is not of the least significance as a support to the "one people" theory, since the right "of these Colonies to alter their former systems (plural) of government" was recognized and demanded in the Declaration—evidently excluding the idea that the Declaration was designed to dethrone George III and enthrone "one people."

As to the claim that "the separate Independence and individual Sovereignty of the several States were never thought of by the enlightened band of patriots who framed this Declaration," its utter want of support is shown by the second Article of the Articles of Confederation framed by a committee appointed by this "enlightened band of patriots," agreed to by them or their successors, and by all the States. It is:

"Each State retains its sovereignty, freedom and independence, and every power, jurisdiction, and right which is not by this confederation expressly delegated to the United States in Congress assembled."

This was an indisputable recognition of the "Inde-

[1] This was passed on the 12th of April, 28 days before the Continental Congress advised the Colonies to adopt Constitutions!

pendence and individual Sovereignty" of each State, since it could not "retain" what did not belong to it.

5. There is not a syllable nor a hint anywhere in the Declaration of Independence that it was intended to merge the peoples of thirteen free, sovereign and independent States into a Nation; nor was there any assumption of sovereign powers by the Continental Congress, since the delegation from each Colony was empowered by its Colony to exercise all the powers necessary and proper for the conduct of the war and foreign intercourse. And in the Articles of Confederation the second Article, quoted above, is so absolutely inconsistent with the theory of the consolidationists, that they hardly deserve a respectful refutation.[1]

6. The answer to Mr. Webster by Mr. Calhoun, and the complete overthrow of his political doctrine, by quoting his own former utterances (always scrupulously ignored and excluded by Northern compilers of school readers, speakers, Union text-books, etc.), may profitably be imitated here. In June, 1851, Mr. Webster delivered an address at Capon Springs, Va., in which he said:

"I have not hesitated to say, and I repeat, that, if the Northern States refuse, willfully and deliberately, to carry into effect that part of the Constitution which respects the restoration of fugitive slaves, and Congress provide no remedy, the South would no longer be bound

[1]One of the most glaring *non-sequiturs* in all the writings of the consolidationists occurs on page 525 of Bancroft's fourth volume, as follows: "On the 24th (June) Congress 'resolved that all persons abiding within any of the united Colonies, and deriving protection from its laws, owe allegiance to the said laws, and are members of such Colony'; and it charged the guilt of treason upon 'all members of any of the united Colonies who should be adherent to the King of Great Britain, giving to him aid and comfort.' The fellow-

to observe the *compact*. A *bargain* can not be broken on one side, and still bind the other side."[1]

Mr. Calhoun's quotations from Mr. Webster's former speeches, and this subsequent utterance at Capon Springs indicate a temporary confusion of thought in 1833, in the midst of the dangers to the Union which protection to New England's manufacturers had caused.

But even if there were no reason to charge Mr. Webster with inconsistency, he is not supported by the evidence he adduces; on the contrary, it is against him. "The people of the United States" in the ratifying ordinances of New Hampshire and Massachusetts, to which he refers, meant the people of the thirteen free, sovereign, independent, and separate States, each State having retained its "sovereignty, freedom and independence" in the Union. Such were "the people of the United States" at that time, and it was a remarkable distortion of the import of the phrase to make it equivalent to "one people" or Nation.[2]

His appeal to the "We, the people" in the preamble of the Constitution is as unavailing as that to the ordinances of New Hampshire and Massachusetts; it indicates an inexcusably superficial examination of the provisions of the Constitution. Whenever nine States ratified the Constitution, it was to be a "Constitution between"—not *for*, or *of*, or *among*—"the States"—not people—"so ratifying the same."

Even this little preposition "between," which is a compound of the old preposition *be*, which signifies *at*, *in*, or *by*, and the numeral adjective *tween*, which signifies *twain*, *twin*, or *two*, not only disposes of the "one

subjects of one king became fellow-lieges of one republic. They all had one law of citizenship and one law of treason."

[1] Curtis's Life of Webster, Volume II, pages 518–519.

[2] See Note F.

people" doctrine; but it clearly demonstrates that the compact was *between* two parties, each State being one of them and its co-States the other. If this is untrue, the statesmen of 1787 were ignorant of the meaning of *between*.[1]

Thus it is beyond question that, if we are guided by the accepted definitions of words, the recognized canons of interpretation of language, and the recorded acts of deliberative bodies, there is not even a shadow of a foundation for the contention that the peoples of the several States were ever consolidated into a Nation, or "one people"; and it is among the marvels of this century that any intelligent man could derive such a doctrine from the Declaration of Independence, the Articles of Confederation, or the Constitution. And the marvel grows when we find this absurd definition of "State" in all the editions of Webster's Dictionary published since 1864: "In the United States one of the Commonwealths[2] or bodies politic, the people of which make up the body of the *Nation*, and which, under the *National* Constitution, stand in certain specified relations with the *National* Government, and are *invested*, as Commonwealths, with full power in their several spheres, over all matters not expressly *inhibited*."

[1] The consolidationists at an early date (Mr. Webster, *e. g.*, at the laying of the Corner Stone of the Bunker Hill Monument, on June 17, 1825) substituted "over" for "between," and to-day very few people have the courage to deny that the Government is "over" the States.

[2] This word "commonwealth" was substituted by the Puritans of England for "kingdom," being the English equivalent for the Latin *Respublica;* and the change was made because there was a change in the source of political power, the freedom, sovereignty and independence of England not being affected. Thence it was imported into these Colonies in 1776, and adopted by some of them. It was a specific title, while "State" was general; but both, in political nomenclature, implied nothing less than absolute autonomy.

NOTE F.

The flag of the United States preserves the truth as to the "one people" doctrine. On June 14, 1777, the Congress which submitted the Articles to the States, passed this resolution: "That the flag of the thirteen United States be thirteen stripes, alternate red and white, with thirteen stars, white in a blue field, representing a new constellation." Afterwards the stars in the "new constellation" were increased as new States were added to the Union, the first act of the Congress providing for such increase being passed April 4, 1818.

It was a union of separate and sovereign States, bound together by the ties of mutual interest and for mutual defense, the same ties which bound them under the Articles and under the Constitution. Such was the significance of the flag in the beginning, and nothing has happened since to impart any other significance to it. If this is not true, the stars should have been long ago removed from it and the population of the "Nation" substituted for them, the thirteen stripes remaining to remind us of the time when the United States "were."

CHAPTER V.

NEW ENGLAND'S SHIPPING INTERESTS.

"It was easy to foresee, what we know also to have happened, that the first great cause of collision and jealousy would be, under the notion of political economy then and still prevalent in Europe, an attempt on the part of the mother country to monopolize the trade of the Colonies. * * *

"The second century opened upon New England under circumstances which evinced that much had already been accomplished. * * *

"The commercial character of the country, notwithstanding all discouragements, had begun to display itself, and *five hundred vessels*, then belonging to Massachusetts, placed her, in relation to commerce, thus early at the head of the Colonies."—Webster's Plymouth Address, December 22, 1820.

Having brought the record of events up to the formation of the new government, we need to be somewhat familiar with the different interests of the different sections of the Union, which could be benefited or injured by Congressional legislation. We begin with New England's shipping interests, because they were among the first to ask for special favors, and to sow the seeds of that sectional conflict which produced the war between the Northern and the Southern States.

The people who came over and settled in Massachusetts in 1620–'23, had spent from eleven to fifteen years in Leyden, the oldest city in Holland, containing at that time about one hundred thousand inhabitants, engaged in manufacturing, ship-building, foreign commerce, and domestic trade.

The historians tell us that: "At the end of the sixteenth century, the Dutch gained the possession of the

Molucca Islands, and secured a monopoly of the spice trade. At the end of the seventeenth century, they owned nearly half of the shipping of Europe." They also tell us that: "Living along the estuaries of rivers abounding in fish," they "soon became a sea-faring people," while "manufactures flourished in a remarkable degree." The intelligence, the skill, the enterprise, the industry, and the thrift of those people commanded the admiration, and in some quarters excited the jealousy of their contemporaries; and the spirit and temper of the Leydeners had found expression, 33 years before the Puritan "Separatists" landed there, in the establishment of their famous University, to which gathered Europe's most renowned teachers of letters, art, and science.

These Englishmen, spending so long a time in such a city, amazed, no doubt, at the marvelous results of the skill and enterprise of the Dutch, could not fail to profit by what they witnessed. Hence, after landing in Massachusetts and familiarizing themselves with their environment, they soon began to put their acquired knowledge to practical use, stimulated by the ambition which contact with the Dutch had engendered. They established schools and set their daughters to teaching, in order that they might give to their children some of that intellectual culture which had evidently been the mainspring of Holland's success and of Leyden's phenomenal wealth; and they put their sons to farming, to fishing, to ship-building, to trading, and to manufacturing, their skill in the latter becoming famous in after times by their reputed success in the production of tin mirrors, basswood hams, and wooden nutmegs![1]

[1] "William Kieft * * * determined * * to flood the streets of New Amsterdam with Indian money. This was nothing more nor less than strings of beads wrought out of clams, periwinkles,

Of the beginning and progress of ship-building in New England, in the early days, our historians give us few records; but from these few we may infer that the business was extensive and prosperous.

In 1634 Cradock had a ship-yard at Medford; Winthrop had the *Blessing of the Bay* built at his expense; the *Rebecca* was built about the same time; a trade in corn and cattle had commenced with Virginia, including Carolina; and West India products—sugar, molasses and rum—were exchanged for furs with the Dutch of New York.[1]

In this same year (1634) Captain Stone and Captain Norton commanded trading vessels on the Connecticut River. In 1636 Captain Oldham commanded a trading vessel on the same river; and during this year the first New England slave-ship, the *Desire*, was built at Marblehead, and entered upon that inhuman traffic, which was kept up till May, 1862.[2]

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and other shell-fish, and called * * * wampum. * * * He began by paying all the servants of the company, and all the debts of Government, in strings of wampum. * * *

For a time affairs went on swimmingly. * * * Yankee traders poured into the Province, buying everything they could lay their hands on, and paying the worthy Dutchmen their own price—in Indian money. If the latter, however, attempted to pay the Yankees in the same coin for their tinware and wooden bowls, the case was altered; nothing would do but Dutch guilders and such like 'metallic currency.' What was worse, the Yankees introduced an inferior kind of wampum made of oyster-shells, with which they deluged the Province, carying off in exchange all the silver and gold, the Dutch herrings, and Dutch cheeses: thus early did the knowing men of the East manifest their skill in bargaining the New-Amsterdamers out of the oyster, and leaving them the shell."
—Knickerbocker's New York, pages 224–225.

[1] Hildreth, Volume I, page 200.

[2] Naval War Records, Volume I, pages 12, 24, 366, 367.

In 1642, according to Hildreth,[1] their ships carried cargoes of staves and fish—the manufacture of rum did not begin till 1733—to Madeira and the Canaries; and on these trips they were accustomed to touch on the coast of Guinea "to trade for negroes," whom they generally carried to Barbadoes and other English islands in the West Indies, "the demand for them at home being small."

In this same year (1642) six large ships were completed at Salem.[2]

Ship-building, indeed, soon became the leading industry in all the seaboard towns, and continued so for about one hundred and seventy years, when "protection" rendered manufacturing equally remunerative. The ships were built for the whale, mackerel, and cod fisheries, for inland, coastwise, and foreign commerce, for the African slave trade, and for sale. For the ship market so many were built that in 1727 the "ship carpenters in the Thames complained that their trade was hurt, and their workmen emigrated."[3]

For about a century and a half those industrious people enjoyed almost a monopoly, in these Colonies, of the carrying trade, except when interfered with by restrictions imposed by the mother State, since there was never any competition attempted by New York and Philadelphia till near the close of that period, nor by the seaports south of Philadelphia till after the Revolution.[4]

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[1] Volume I, page 282.

[2] Ibid., page 331.

[3] Hildreth, Volume II, page 297.

[4] In Carroll's Historical Collections of South Carolina there is a paper which was published in London in 1761, wherein, after giving an account of the trade of Charleston, the author (believed to have been Governor Glen) said: "But with all this trade we have few or

After the Revolution, of which British restrictions on New England's commercial interests were the prime cause, "free trade and sailors' rights" followed, with corresponding benefits to those interests; and special privileges were secured, in the treaty of peace, to their fishermen on the Banks of Newfoundland and in the Gulf of St. Lawrence.

After the breaking out of the war and the consequent disturbances of commerce, much of the money made by the slave trade and other commercial operations was invested in manufacturing and mechanical trades to fill army contracts and supply the wants of the people; another portion was employed in speculating in Continental and State securities, including the bills of credit; another was devoted to privateering enterpises; and another to traffic with the soldeirs.

After the war was over commerce resumed its old importance, stimulated to vigorous expansion by the preferences accorded to it because of the bitter memories of Britain's aggressions; and up to the formation of the more perfect Union, it would not be far from the truth to declare that New England's shipping interests enjoyed almost as many monopolistic privileges as were afterwards conferred on them by acts of Congress.

The result up to 1786 is thus given by Hildreth, Volume III, pages 465–66:

"One large portion of the wealthy men of Colonial times had been expatriated, and another part had been impoverished by the Revolution.[1] In their place a new moneyed class had sprung up, especially in the Eastern

no ships of our own. We depend in a great measure upon those sent from Great Britain, or on such as are built in New England for British merchants, and which generally take this Country in on their way to get a freight to England."

[1] See Note G.

States, men who had grown rich in the course of the war as suttlers, by privateering, by speculations in the fluctuating paper money, and by other operations not always of the most honorable kind. Large claims against their less fortunate neighbors had accumulated in the hands of these men, many of whom were disposed to press their legal rights to the utmost. The sudden fortunes made by the war,'' [1] etc.

But, while giving the result, Hildreth omits one of the essential causes. This is supplied by a New Englander (probably J. Q. Adams), who, under the *nom de plume* of Algernon Sidney, addressed "an appeal to the people of New England," December 15, 1808 (printed as a public document in State Papers, 2d sess., 10th Cong.), designed to reconcile them to the non-intercourse acts of Jefferson's Administration. Among other things he said: "Recur to the period between peace and the present Government. Did not the commercial States enrich themselves at the expense of the agricultural?"

The freeing of the commerce of these people from British restrictions and the securing of privileges to their fishermen ought, one would suppose, to have been enough; but they wanted more, and, as soon as the Federal Government was empowered in the Constitution to regulate commerce and to lay taxes on imported goods, they applied through their representatives for greater privileges; and they received them. An absolute monopoly of the coastwise trade was conferred on ships built in the United States, with the privilege of adjusting freight and passenger rates to suit the owners; a discriminating tonnage tax was imposed on all

[1] The Atlantic Monthly f 7, says that one of the ers of the Declaration ok "advantage of in- aion of the needs of ase for wheat to corner supply at once so fa

foreign ships engaged in carrying goods to or from these States; a discriminating tariff tax was imposed on all articles imported into these States in foreign ships; ship-builders in the United States were granted an absolute monopoly of the "home market" for ships; and New England's cod-fishermen were quartered on the taxpayers of all the States.

Such favoritism as this, bestowed mainly on a people unsurpassed in the United States for intelligence, skill, and energy, bore its legitimate fruits:

1. The victims of this paternalism began to ask what had become of the "justice" promised in the Constitution, and the resulting sense of wrong passed from father to son long after the occasion of it was forgotten; and

2. By 1810[1] the shippers of the United States controlled a greater proportion of the world's carrying trade than either Holland or England.[2]

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[1] Twenty-one years of paternalism ran up the tonnage in the following States, vessels under 20 tons being omitted, to the figures in the table:

Massachusetts,	483,509 tons
New York,	272,473 "
Pennsylvania,	123,883 "
Maryland,	136,292 "
Virginia, North Carolina, South Carolina, and Georgia,	181,972 "

This was about eight times, on an average, what the tonnage of these States was in 1789.

But the principal beneficiaries of the favoritism can only be discovered by comparing tonnage with population. This comparison gives per 1,000 persons—

In Massachusetts,	1,024.25 tons
" New York,	284. "
" Pennsylvania,	152.9 "
" Maryland,	358. "
" Virginia North Carolina, South Carolina, and Georgia,	82.8 "

—(See State Papers, Commerce and Navigation, Vol. I, pp. 896-901).

[2] Smith's Wealth of Nations, American Edition, Volume I, page 266, foot note.

It is not necessary, in closing this chapter, to enlarge on the interests of other classes of the people. It is well known that agriculture was the principal business of an overwhelming majority at the time of the adoption of the Constitution and for several decades afterwards; and, furthermore, that diversification of employments was confined almost exclusively to the Northern States, with the result, at an early day, that the surplus crops of their farmers were consumed by those engaged in other occupations, while the Southern farmers were obliged to seek a market for most of their surplus in foreign lands.[1] It was impossible, therefore, for them to quarter themselves on the taxpayers of the Union unless they could have prevailed on the Congress to give them bounties out of the Federal treasury. This they never applied for, because they inherited a respect for the Constitution which, they very well knew, conferred no such power on the Congress.

Under these circumstances the South was subjected to two wrongs by operation of Federal laws:

1. Foreign prices had to be accepted for her crops whether sold abroad or in the United States, and tariff laws compelled her to purchase her supplies of manufactured articles at prices considerably above those charged in foreign markets; and

2. Every act of Congress designed to counteract hostile commercial legislation by any foreign government—most of the tariff acts included—led to further restrictions on exports from the United States, of which the

[1] In the Convention of 1787 Mr. Madison, on June 28, said: "The staple of Massachusetts is fish and the carrying trade; of Pennsylvania, wheat and flour; of Virginia, tobacco"; and on the next day he said: "The great danger to our general government is the great Southern and Northern interests of the continent being opposed to each other."—Yates.

South furnished from 80 to 90 per cent. In other words, every movement on the part of Congress to check imports of foreign manufactures has been met by real or threatened restrictions on our exports of agricultural products. In later years this retaliatory spirit has discovered trichinosis in the pork and tuberculosis in the beef exported from the United States.

The farmers and other producers of provisions and other raw material in the South were, therefore, kept between the upper and the nether millstone—the domestic manufacturer and the foreign farmer.

NOTE G.

The comparative wealth of the two sections before the Revolution can be approximately arrived at from the exports to Great Britain. Hildreth, Volume II, page 559, says: "The trade between Great Britain and the Colonies is stated for the year 1770, as follows, and the average for the last ten years, allowing for a moderate increase, had not been materially different:

EXPORTS TO GREAT BRITAIN.

New England,	$657,168
New York.	310,276
Pennsylvania,	124,802
Virginia and Maryland,	1,931,801
Carolinas,	1,234,750
Georgia,	234,352"

Comparing these exports with population in 1790, we find that for every one hundred persons, including slaves, the value of the exports was as follows:

New England,	$65.00
New York,	91.00
Pennsylvania,	28.00
Virginia and Maryland,	181.00
Carolinas,	192.00
Georgia,	283.00

CHAPTER VI.

NEW ENGLAND'S SHIPPING INTERESTS (CONTINUED).—NAVIGATION LAWS.

"An oak vessel could be built at Gloucester or Salem for $24 per ton; a ship of live-oak or American cedar cost not more than $38 per ton. On the other hand, fir vessels built on the Baltic cost $35 per ton, and nowhere in England, France, or Holland could a ship be made of oak for less than $50 per ton. Often the cost was as high as $60."—Fiske's Critical Period, etc., pages 141–42.

To the general discussion of New England's shipping interests in the preceding chapter, let us now enter upon an examination of the different laws passed for their benefit, except the fishing bounty acts, which will be found in the next chapter.

It is a matter of curious interest that the clause of the Federal Constitution conferring upon the Congress the power to regulate commerce was the result of a compromise between the agricultural interest of the South and the shipping interest of the Northeastern States. In Mr. Charles Pinckney's plan of a Constitution, which presented the general form and much of the substance finally agreed to, he proposed to grant this power with a very salutary proviso, inspired, perhaps, by that distrust of the commercial interests which seems to have been shared by many of the Southern delegates to the Convention.[1] It was that any act reg-

[1] For some reason the New Englanders made unfavorable impressions on others besides the Southerners. In the Journal of William Maclay, one of Pennsylvania's first Senators, two opinions are recorded, which were kept by him and his family from publication for a century. The first is on page 260, as follows: "I would now remark, if I had not done it before, that there is very little candor

ulating commerce should require a *two-thirds vote* in its favor in each House.

The subject was debated for months, and fruitless efforts were made by the Northeastern delegates to have the proviso stricken out. At last an opportunity for a "bargain" arose. This was when the question was to be settled whether the Congress should have the power to prohibit the importation of African slaves. "As the system," says Luther Martin of Maryland, who was a member of the Convention, "was reported by the Committee of Detail" (the Committee of Five who reported the final draft), "the provision was general, that such importation should not be prohibited, without confining it to any particular period. This was rejected by eight States, Georgia, South Carolina, and, I think, North Carolina, voting for it. We were then told by the delegates from the two first of those States that their States would never agree to a system which put it in the power of the general government to prevent the importation of slaves, and that they as delegates from those States must withhold their assent from such a system. A committee of one member from each State was chosen by ballot to take this part of the system under their consideration and to endeavor to agree upon some report, which should reconcile those States. *To this committee also* was referred the following proposition, which had been reported by the Committee of Detail, to-wit: 'No navigation act shall be passed without the assent of two-thirds of the members present in each House'; a proposition which the staple and commercial (agricultural) States were solicitous to retain, lest

in New England men." The second is on page 341: "For my knowledge of the Eastern character warrants me in drawing this conclusion, that they will cabal against and endeavor to subvert any government which they have not the management of."

their commerce should be placed too much under the power of the Eastern (New England) States; but which those States were as anxious to reject. This committee, of which I also had the honor to be a member, met and took under their consideration the subject committed to them. I found the Eastern States, notwithstanding their aversion to slavery, were willing to indulge the Southern States, at least with a temporary liberty to prosecute the slave trade, provided the Southern States would in their turn gratify them by laying no restriction on navigation acts; and after a little time the committee, by a great majority, agreed on a report," which was acceptable to both parties. [1]

Such was the compromise: the Southern States retained the power until 1808 [2] to purchase Africans imported by New England's slave traders, with the proviso lodged somewhere (nobody knows where) that the Northern States could liberate and enfranchise them; and the Eastern States secured to themselves the power to have navigation acts passed by a bare majority of a quorum in each House—one more than a fourth of the total membership—instead of two-thirds of the members. [3]

But in truth this was only a seeming compromise; it was a surrender of two rights by " the South," and a surrender of no right by the North. The right to im-

[1] Yates's Secret Proceedings and Debates of the Convention of 1787, pages 62-63.

[2] The compromise, as agreed to in the committee, and reported to the Convention, provided for non-interference with the slave-trade till 1800; but the next day (August 25) "it was moved and seconded" to strike out 1800 and insert 1808, and this was agreed to, the yeas being New Hampshire, Massachusetts, Connecticut, Maryland, North Carolina, South Carolina and Georgia; and the nays, New Jersey, Pennsylvania, Delaware and Virginia.—El. Deb., I, 264.

[3] See Constitution, Article I, sections 5, 8 and 9; and Note H.

port slaves forever belonged to each of the Southern States, as did the right to go into the open market and employ the cheapest ships for their coastwise and foreign commerce. Both rights they lost in the so-called compromise, and received absolutely nothing as an equivalent. Truly did Greeley say (2, p. 232) that "the Constitution was essentially a matter of compromise and mutual concession—a proceeding wherein Thrift is apt to gain at the cost of Principle."[1]

This power being delegated to the Congress, its exercise was entered upon with eagerness before measures were adopted to organize the Treasury or State Department, or the Supreme or any other courts. In the Senate, according to Maclay, when the clause in the bill was reached granting a partial monopoly to "all ships or vessels within the United States, and belonging wholly to citizens thereof," Izard, of South Carolina, moved to have the latter part struck out, "the effect of which would have been that no discrimination would have been made between our own citizens and foreigners." Lee and Grayson, of Virginia, Butler and Izard, of South Carolina, and Few, of Georgia (North Carolina was not then in the Union), "argued in the most unceasing manner" against the discrimination, but to no purpose.

The act became a law September 1, 1789; and even Maclay, a supporter of it, was compelled by his sense of

[1] An example of misrepresentation of truth is seen in the following reference to this so-called compromise on page 255 of Fiske's Civil Government: "There was some sectional opposition between North and South, and in Virginia there was a party in favor of a separate Southern Confederacy. But South Carolina and Georgia were won over by the concessions in the Constitution to slavery, and especially a provision that the importation of slaves from Africa should not be prohibited until 1808."

justice to make this admission: "In a view solely mercantile, this was perhaps wrong, as by these means our foreign articles would be dearer and our home produce cheaper."[1]

This remark referred to the foreign trade, and was written before the coastwise-trade provisions were reached. These gave to "American" vessels an absolute monopoly of the carrying trade between ports of the United States, and enabled their owners to fix freight rates on naval stores, lumber, pork, indigo (when it was a Southern crop), wheat, flour, cotton, tobacco, and rice shipped to Northern markets, and on Northern and foreign goods shipped from Northern to Southern ports.

The discriminations in favor of "American" ships will be seen in the following acts:

TONNAGE[2] DUTIES.

1. The Act of July 20, 1790, amending the Act of September 1, 1789, but not changing rates: "Upon all ships or vessels which, after the 1st day of September next, shall be entered in the United States from any foreign port or places, there shall be paid the several and respective duties following, that is to say: on ships or vessels of the United States at the rate of six cents per ton; on ships or vessels built within the United States, after the 20th day of July last, but belonging wholly or in part to subjects of foreign powers, at the rate of thirty cents per ton; on other ships or vessels at the rate of fifty cents per ton."

[1] Maclay's Journal, pages 76, 77.

[2] The burden or tonnage of a ship is its capacity in cubic feet. Webster's Dictionary says a ton is about forty cubic feet; Alden's Cyclopœdia says 100 cubic feet make a ton; but the act of Congress establishing rules for measuring the capacity of a vessel makes 95 cubic feet a ton, which is about 76 bushels.—Act of March 2, 1799.

2. The Act of January 14, 1817, reenacts the rates of the above act, with a proviso that there shall not be any impairment of rights acquired by any foreign nation under any treaties or other commercial agreements.

3. The Act of March 1, 1817, makes certain discriminations in favor of licensed vessels; and imposes fifty cents per ton on vessels of the United States if the officers and at least two-thirds of the crew are not citizens of the United States.

4. The Act of May 31, 1830, provides that no tonnage duties shall be paid on vessels of the United States; nor on the vessels of any foreign nation which levies no discriminating or countervailing duties, "to the disadvantage of the United States."

LIGHT MONEY.

The Act of March 27, 1804, lays a duty of fifty cents per ton, "to be denominated 'light money,'" on all ships or vessels, not of the United States, "which * * may enter the ports of the United States"; provided that this act shall not contravene any provision of the treaty with France.

RESTRICTIONS ON FOREIGN VESSELS.

The Act of March 1, 1817, contained this provision: "After the 30th day of September next, no goods, wares or merchandise shall be imported into the United States from any foreign port or place, except in vessels of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country of which the goods are the growth, production, or manufacture; or from which such goods, etc., can only be, or most usually are, first shipped for transportation: *Provided nevertheless*, That this regulation shall not extend to the vessels of any foreign nation which has not adopted and which shall not adopt a similar regulation."

COASTING TRADE.

1. On February 18, 1793, the Act of September 1, 1789, was amended to this effect: "Ships or vessels enrolled by virtue of 'the last-named act,' and those of twenty tons and upwards, which shall be enrolled after the last day of May next, in pursuance of this act, and having a license in force, or, if less than twenty tons, not being enrolled, shall have a license in force, as is hereinafter required, and no others, shall be deemed ships or vessels of the United States, entitled to the privileges of ships or vessels employed in the coasting trade or fisheries."

2. For some reason—probably evasions of the law—it was enacted, March 1, 1817, that: "No goods, wares, or merchandise shall be imported, under penalty of forfeiture thereof, from one port of the United States to another port of the United States, in a vessel belonging wholly or in part to a subject of any foreign power."

3. On May 27, 1848, an act was passed to permit these privileged vessels (including steamships) to touch at foreign ports for merchandise and passengers. [1]

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[1] "And what does New York enjoy? What do Massachusetts and Maine enjoy? They enjoy an exclusive right of carrying on the coasting trade from State to State, on the Atlantic, and around Cape Horn to the Pacific. * * * It is this right to the coasting trade, to the exclusion of foreigners, thus granted to the Northern States, which they have ever held, and of which, up to this time, there has been nc attempt to deprive them; it is this which has employed so much tonnage and so many men, and given support to so many thousands of our fellow-citizens. Now, what would you say * * * if the South and the Southwest were to join together to repeal this law, * * * and invite the Dane, the Swede, the Hamburgher, and all the commercial nations of Europe *who can carry cheaper*, to come in and carry goods," etc.?—Webster to the Young Men of Albany, May 28, 1851.

DISCRIMINATING DUTIES.

The tariff act of July 4, 1789, imposed discriminating taxes on tea imported from China, as follows:

		In U S. Vessels.	In Foreign Vessels.
Bohea	per lb.,	6 cents.	15 cents.
Souchong	"	10 "	22 "
Other black imperial	"	10 "	22 "
Gunpowder	"	10 "	22 "
Hyson and Young-Hyson	"	20 "	45 "
All other green	"	12 "	27 "

This same act allowed a reduction of 10 per cent of the rates of duty imposed on all foreign goods, if imported in United States vessels; and while imposing a tax of 12½ per cent on all articles (other than tea) coming from China or India, it permitted them to come in free of duty in ships built or owned in the United States.

And as if this were not favoritism enough, the Act of May 13, 1800—the last year of the domination of the Federalists—provided: "That in case of the re-exportation from the United States of goods, wares, and merchandise, imported thereinto in foreign ships or vessels, no part of the additional duty imposed by law on such goods, etc., on account of their importation in such ships or vessels, shall be allowed to be drawback," etc.

"HOME MARKET" FOR SHIP BUILDERS.

The Act of December 31, 1792, provides as follows:

"Ships or vessels built within the United States, whether before or after the 4th of July, 1776, and belonging wholly to a citizen or citizens thereof; or not built within the said States, but on the 16th day of May, in the year 1789, belonging and thenceforh continuing to belong to a citizen or citizens thereof; and ships or vessels which may hereafter be captured in war by such citizen or citizens, and lawfully condemned as prize, or

which have been or may be adjudged to be forfeited for a breach of the laws of the United States, being wholly owned by a citizen or citizens thereof, and no other, may be registered as hereinafter directed," etc.

This act, which has never been repealed, compels every person, corporation, State, and even the United States, whenever a necessity arises, to purchase, lease or employ in any way any ship or vessel, to make the purchase, etc., in the "home market"; and it is not necessary to assure the reader that every advantage has been taken which the act permits.

More than a century has this monopoly been fleecing the people, either directly, whenever they have had occasion to purchase or hire a vessel, or indirectly, through the military branch of the Federal Government whenever it has needed to purchase or hire transports for troops or war material. The delay in transporting troops, etc., to Cuba, Manila, etc., during the present war with Spain is familiar to readers of newspapers. "Outrageous prices," as the Philadelphia Record calls them, have been charged by the ship-owners. On the 17th of September, 1898, a check for $1,475,000 was given in payment of the rental of four ocean steamers of the American line, which were in the Federal service "for an average period of nearly one hundred and twenty days." This is about $3,070 per day for each ship, or $820,550 per year; and the last sum is about five times the total cost ($165,868) of the fifteen iron and steel steamships built in Pennsylvania in 1889.—Census, 1890, Manf. Ind., Part 3, 564.

How large a stream of wealth this paternalism has caused to flow from the South to the North, and chiefly to New England, we may never know; but we may not err greatly if we draw inferences from the parallel paternalism complained of in the address to "the Inhabitants

of Great Britain," July 8, 1775, by "The Twelve United Colonies," as follows: "It is alleged that we contribute nothing to the common defense. To this we answer that the advantages which Great Britain receives from the monopoly of our trade far exceeds our proportion of the expense necessary for that purpose."[1] And we may reach a more definite conclusion from the testimony of a witness who had opportunities of observing the operations of these laws. It was Mathew Carey, who, on page 268 of his Olive Branch, said:

"The naked fact is that the demagogues in the Eastern States, not satisfied with deriving all the benefits from the Southern States, that they would from so many wealthy colonies—with making princely fortunes by the carriage and exportation of their bulky and valuable productions—and supplying them with their own manufactures, and the manufactures and productions of Europe and the East and West Indies, to an enormous amount, and at an immense profit, uniformly treated them with outrage, insult, and injury."

To him may be added another witness, who is quoted by Carey on page 291. It was John Lowell, the founder of Lowell Institute in Boston.

In his *Road to Ruin*, objecting to the transfer of capital from commerce to manufacturing, he declared that commercial gains were *50 per cent*, while factories could never yield more than 20 per cent!

And the testimony of these witnesses is corroborated by the extent of the operations of those engaged in commerce. Their sails whitened every harbor in the commercial world; through their agents foreigners received their impressions of the character, skill, enterprise, and spirit of the people of all these States; and, when the

[1] N. C. Col. Recs., X, 81.

War of 1812 commenced, the whole people, from the Gulf of Mexico to the Canadian border, had lost much of that respect abroad which had been inspired by their conduct in the Revolution. "There existed a general impression among civilized nations," says the Statesman's Manual, Volume I, page 376, "that the spirit of liberty and independence which had carried America triumphantly through the war of the Revolution, was extinguished by a love of gain and commercial enterprise, without courage and resolution sufficient to sustain the National rights."

The effect of the first act (September 1, 1789) was magical; the tonnage employed in the foreign trade rose from 123,893 in 1789 to 346,254 in 1790; that engaged in the coasting trade rose from 68,607 to 103,775 in the same period; and that engaged in the cod and mackerel fisheries (with the additional stimulus of bounties and drawbacks explained elsewhere), rose from 9,062 to 28,348 in the same period. [1]

The Act of February 18, 1793, providing for favors to vessels of less than twenty tons, employed in the coasting trade, was equally magical; the tables drawn on above give 7,218 tons for that year and 16,977 for 1794.

As might be expected, the foreign commerce of the United States rapidly fell into the hands of those who enjoyed a monopoly of the coasting trade; so that before 1795 they controlled 75 per cent of it; from that year to 1800, 87 per cent; and by 1810 they had reached 91 per cent.[2] From the last-named year until 1831 it never fell below 86 per cent; but about that time the policy of mad protection—the "bill of abominations"—was beginning to allure capital from commerce to manufac-

[1] Commerce and Navigation of the United States, 1891, page 1086.

[2] Ibid., page CVIII.

turing; and the American tonnage fell to 77 per cent, from which it never recovered. Indeed, the still madder protection the country was afflicted with by the war tariffs ran the per cent down to 19 in 1881; and, notwithstanding all the extra coddling by exemptions from fees [1] and from taxes on ship materials, [2] and by bounties for carrying the mails, [3] etc., the high-water mark of 1895 was only 23 per cent.

Two observations should be made here. The first is that many Southern statesmen in the early Congresses supported and voted for the measures designed to foster

[1] By the Act of June 26, 1884, the Secretary of the Treasury was directed to pay to United States Consuls the fees theretofore required to be paid by masters of vessels and seamen; and the Act of June 19, 1886, directed that officer to pay fees theretofore paid by masters, engineers, pilots and mates of vessels, as for measuring tonnage, issuing license, bill of health, inspecting, granting certificates, granting permits, etc., etc.

[2] The policy of exempting ship material from import taxes was inaugurated by the Act of June 6, 1872; and it has been pursued ever since. But the Dingley Act goes beyond this; it provides in sections 12, 13 and 15 that "all materials of foreign production which may be necessary for the construction of vessels built in the United States for foreign account and ownership, or for the purpose of being employed in the foreign trade, including the trade between the Atlantic and Pacific ports of the United States, and all such materials necessary for the building of their machinery, and all articles necessary for their outfit and equipment," or "for the repair" or "for *supplies* (not including equipment) of vessels of the United States engaged in foreign trade, or in trade between the Atlantic and Pacific ports of the United States," shall be exempt from tariff or *internal revenue* taxes.

[3] No longer ago than 1892 Mr. Postmaster-General Wanamaker reported that between February 1 of that year and June 30 he paid out to four steamship lines $77,103.85 more than the service was worth; and his estimates for the next year cover a bonus of $610,639 to nine lines.—(See his Report for 1892, pp. 10 and 11.)

And Postmaster-General Bissell, in his report for 1894, page 22, says that a bonus or subsidy of $257,779 was paid that year, under one of Mr. Wanamaker's contracts, to three steamship lines.

the shipping interests, for the double purpose of insuring a powerful merchant marine which might render valuable service in case of war, and of pacifying the commercial class in New England who threatened to withdraw their States from the Union whenever their interests seemed to be losing the paternal care of the Government.

The other is that the farmers of the South, enjoying a satisfactory degree of prosperity, having no railroads or other means of rapid communication with the people of the Northern States, enjoying none of the modern facilities for informing themselves, and trusting all public matters to their political leaders, saw no reason why they should abandon their farms and enter into a competition with the experienced ship-builders and traders of the North. They did not realize the stealthy transfer of their wealth to the Northern States until it was too late to hope for an efficient remedy, and even then only a very small per cent of them could be made to understand the causes of their financial decadence. But even if Southern capital had been directed to this competition, the wealth of the farming class would have flowed from them as before, the channel alone being changed. So there was no hope of recovering his lost wealth or of securing the benefits of fair and honorable commercial competition; and the intelligent farmer began to doubt whether he was having his share of the blessings of liberty, to secure which his forefathers had carried his State into the Union.

And this injustice is still irremediable.

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The provision of the Constitution empowering a quorum to do business, thus enabling one-fourth *plus* one of the total membership to pass important acts, provided they are voted against by one-fourth, has led to unforeseen evil results (unless we except Mason

and Randolph, of Virginia, who refused to approve and sign the Constitution because this "two-thirds" provision was stricken out). If a two-thirds vote had been required on all bills laying taxes and making appropriations, the tranquillity of the Union might never have been disturbed.

The protective tariff of 1816 was passed in the House of Representatives by the affirmative votes of 88 out of a total membership of 183, or 48 per cent.

The "American System" of 1824 was passed by 107 out of 213, or 50⅛ per cent.

The "bill of abominations" of 1828 was passed by 105 out of 213, or 49 per cent.

The tariff act of 1832 was passed by 132 out of 213, or 61 per cent.

The tariff of 1842 was passed by 103 out of 243, or 42 per cent.

Thus it is seen that the tariff acts up to 1861—those acts which caused, directly or indirectly, nearly all the excitement and antagonism in the Union—were imposed on the people by minority votes, with two exceptions; and that the act which laid the foundation for the threatened rupture in 1832 was passed by 49 per cent of the total membership.

But during all these years the people were flattered by the politicians with rhetorical flourishes about "American citizens," "democratic government," "the popular will," etc.

This minority government is going on yet, and will continue to do so as long as the people believe they are living under a "government of the people, and by the people, and for the people."

CHAPTER VII.

FISHING BOUNTIES.

The first tariff act, which became a law on July 4, 1789, imposed a duty of ten cents per bushel on all salt imported into the United States for consumption, and granted a bounty of five cents a barrel on pickled fish exported, and also on beef and pork exported, and five cents a quintal (100 pounds) on dried fish exported, "in lieu of a drawback of the duties" which had been paid on the salt.

The Act of August 10, 1790, raised the duty on salt to twelve cents—just after Hamilton's scheme of funding and assumption had been fastened on the taxpayers—and the bounty on salt fish, beef and pork was raised to ten cents per barrel and quintal.

But this was not concession enough to the fishing interest; the Legislature of Massachusetts sent a petition to Congress asking for "a remission of duties on all the dutiable articles used in the fisheries," whether re-exported or not—salt, rum, tea, sugar, molasses, iron, coarse woolens, lines and hooks, sail-cloth, cordage and tonnage; "and also premiums and bounties."[1] This petition was referred to Mr. Jefferson, Secretary of State, for a report on it; and his report was that a drawback of duties on articles exported ought to be allowed, but that the fisheries ought not to draw support from the Treasury.[2]

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[1] Two years before this John Jay had said in the Federalist (No. IV), that these fishermen could supply the markets of France and Britain "cheaper than they can themselves, notwithstanding any efforts to prevent it by bounties on their own, or duties on foreign fish."

[2] See Benton's Thirty Years' View, Volume II, pages 194–98.

The underlying motive of this petition was "patriotic" in the highest degree; it was to encourage the fishermen to maintain a "nursery for seamen," who would be schooled to manage cruisers and privateers in case of a war.—(See Maclay, p. 384). The Legislature forgot the superior advantages of whaling vessels for this service.

The Act of December 31, 1792, changed the bounty from barrels and quintals of fish to the tonnage of the vessels employed in the business, granting 30 cents per ton for each season, whether any fish were exported or not.

The Act of March 3, 1797, advanced the tax on imported salt to 20 cents per bushel, and a corresponding increase was made in the bounties both to exported provisions and pickled fish, and in the allowance to fishing vessels.

The Act of March 3, 1799, granted a bounty of 30 cents per barrel on exported pickled fish, and 25 cents per barrel on exported salted beef and pork.

Thus stood matters until 1807, when, on the recommendation of President Jefferson, the salt tax was abolished, and with it all bounties and allowances to fishing vessels, to pickled fish, and to salted beef and pork.

In 1813, however, the exigencies of war furnished an excuse for restoring the tax of 20 cents per bushel on imported salt; and the threats of secession in the New England States furnished an excuse for a considerable enlargement of the "bounty of the Nation."

The act of that year, July 29, *left out the farmer's beef and pork*; and granted 20 cents a barrel on all pickled fish exported, and an additional bounty per ton as follows: One dollar and sixty cents per ton if the vessel were under twenty tons; $2.40 per ton if under thirty tons and over twenty; and $4 per ton if over thirty tons.

The Act of March 3, 1819, changed this tonnage bounty on vessels of more than five and not exceeding thirty tons to $3.50 per ton.

These bounties were paid to the fishermen, although, according to a judicial decision (The Harriet, 1 Story, 251), they were "under no restrictions as to the length of their trips or the nature of their fisheries," nor as to the distance they should sail from the shores of the United States, "if they were without the limits of any port or harbor on the seacoast."[1]

On May 26, 1824, it was enacted that, if a returning fishing vessel, having complied with the terms of the law, were wrecked, her owner should "be entitled to the same bounty as would have been allowed, had such vessel returned to port."

The Act of July 13, 1832, reduced the salt tax to ten cents per bushel; the Act of March 2, 1833, provided for a further reduction; the Act of July 4, 1836, restored it to ten cents, where it remained till August 30, 1842. Then it was reduced to eight cents, where it remained till salt was placed on the free list by the Act of July 30, 1846. But the bounties and allowances were not reduced.

Here we have extravagant and unauthorized bounties for at least thirty-three years—from 1813 to 1846—eating up the substance of the people without any compensatory benefits to them. In 1840, according to Mr. Benton (2, 197), it took nearly all the salt revenue to pay the bounties; the next year, he said, that revenue would fall short of paying them; and in 1842 it would not pay but half of them. And thus it went on from bad to worse till the Act of 1846 provided that no bounty should be allowed on pickled fish, and no allowance ex-

[1] See Brightley's Digest, Volume I, page 284, foot notes.

cept a drawback equal to the tax on the imported salt used in curing them; but even then the tonnage bounty was not repealed.

How much the people were compelled by law to contribute as a free gift to the fishermen[1] may never be known; but some estimate may be ventured from the figures given by Mr. Benton. "In 1831," he says, "a drawback of duty on the salt used in curing the fish exported would have been about $160,000; but the bounty and allowance amounted to $313,894." This was when the tax was 20 cents per bushel. The next year it was reduced to 10 cents, and for fourteen years it varied between eight and ten; so that instead of a drawback of less than $80,000, which was all they were entitled to each year, supposing no variation of the amount of their annual exports, they received nearly four times that sum. In fourteen years this unearned increment would amount to more than three million two hundred and seventy-five thousand dollars.

Now add to this sum the result of a conservative estimate for the preceding nineteen years, and we have over six million two hundred and eighty thousand dollars as the amount the New England fishermen were permitted by unjust and unconstitutional Federal legislation to pull out of the pockets of the toilers of the Union from 1813 to 1846, not including sums obtained by fraud. On the question of constitutionality, the reader will be interested in the opinions of two distinguished statesmen, one of them having been a member of the Convention which framed the Constitution.

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[1] They were not contented with the "free gift"; they perpetrated frauds on the people's treasury, as is evident from the following passage in President Jackson's annual message of December 7, 1830:

"Abuses in the allowances for fishing bounties have also been corrected, and a *material saving* in that branch of the service thereby effected."—(See Statesman's Manual, Vol. II, p. 750.)

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[1] N. C. Col. Recs., X, 81.

In 1818 a convention at London granted to United States citizens the right to fish on certain parts of the west and southwest coast of Newfoundland, on the shores of the Magdalen Islands, and on the coast of Labrador, east and north of Mount Toby; to dry and cure fish on Labrador and the south coast of Newfoundland while unsettled, or, otherwise, with local consent as before; and to enter bays and harbors for wood, water, shelter, and the repair of damages.

In 1854 the "Reciprocity Treaty" confirmed the rights granted in 1818, and conferred further the rights of taking all fish, except shellfish, salmon, and shad, on the coasts, and in the bays, harbors, and creeks (but not in the mouths of rivers) of Canada, New Brunswick, Nova Scotia, Prince Edward Island, and the neighboring islands, and of curing and drying fish on all these shores.

In 1866, previous notice having been given by the United States authorities, according to its terms, the treaty of 1854 was abrogated, which left the treaty of 1818 in force. The British-American authorities then for five years made many complaints of aggressions on the part of the New England fishermen; and a state of tension and unpleasantness existed until the treaty of Washington, 1871, was negotiated. By this most of the provisions of the treaty of 1854 were revived. According to article 25 of this treaty Commissioners met at Halifax to determine the justice of the complaints of the Canadian authorities; and this Commission awarded, 1877, damages to Great Britain in the sum of $5,500,000.

The fishing articles of the last treaty expired July 1, 1885; but a temporary arrangement was made whereby the New Englanders had the privileges of the treaty extended through that season. Afterwards the business was conducted under the treaty of 1818; but a failure

to arrive at an interpretation of Article I, satisfactory to both sides, resulted in numerous vexations, annoyances, and seizures of New England fishing vessels. In 1886 serious difficulties arose because of such seizures. Retaliatory measures were threatened and in some instances attempted, and public excitement over the situation became alarmingly inflamed.

In 1887 Mr. Cleveland sought a conference with the British authorities for the purpose of reaching a satisfactory interpretation of the treaty of 1818; each side appointed three Commissioners, who sat in Washington, formulated and signed a treaty on the 15th of February, 1888. But the Senate refused to ratify it, whereupon the President asked for power to institute retaliatory measures against Canada.

After that the whole subject remained in the condition established by the disputed treaty of 1818, except some temporary or conditional arrangements.

All the expenses of these negotiations, together with the award to Great Britain, were paid by people who, a few hundred excepted, received nothing in return, except the pleasure of having conferred further benefits on a class which had been quartered on them for nearly a century.

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CHAPTER VIII.

REVOLUTIONARY WAR DEBT—HOW NORTHERN TRADERS AND SPECULATORS WERE ENRICHED AT THE EXPENSE OF THE SOUTHERN PEOPLE BY THE MANIPULATION OF THE CONTINENTAL AND STATE DEBTS.

In the month of January, 1790, Mr. Hamilton, the Secretary of the Treasury, laid before the House of Representatives, at its request, "a plan for the support of the public credit," proposing that the debts of the separate States be assumed by the Congress (without a shadow of Constitutional authority),[1] and that they, together with the debts contracted by the Continental Congress, be funded, provision for their payment to be made by impost duties, excises, etc., instead of grants of the "waste lands" which had been ceded by certain States.

"Several resolutions," says Marshall's Life of Washington, "affirmative of the principles contained in the report of the Secretary, were moved by Mr. Fitzsimmons, of Pennsylvania. To the first, which respected a provision for the foreign debt"—$11,710,000—"the House agreed without a dissenting voice. The second, in favor of appropriating permanent funds for payment of interest on the domestic debt, etc., gave rise to a very

[1] In the Philadelphia Convention, August 21, Mr. Livingston of the committee, appointed on the 18th, reported that "the Legislatur of the United States shall have power to discharge as well t debts of the United States as the debts incurred by the seve States during the late war." The report was postponed.

On the next day Mr. Morris moved to amend Mr. Livingst port so that it would read as follows: "The Legislature s the engagements and discharge the debts of the Unite thus striking out the State debts. This was agreed to un —El. Deb., I, 256–57.

animated debate." An amendment to allow the public creditors only the then market value of their paper—one-eighth of its face value—"was opposed by Messrs. Boudinot, of New Jersey; Lawrence, Ames, and Goodhue, of Massachusetts; Hartley, of Pennsylvania; and Sherman, of Connecticut, and was defeated."

"Mr. Madison," says Marshall, "then proposed to pay the present holder of assignable paper the market price, and give the remainder"—seven-eighths of its face value—"to the original holder. This was opposed by Messrs. Sedgwick, Lawrence, Ames, Gerry, and Goodhue, of Massachusetts; Boudinot, of New Jersey; Hartley, of Pennsylvania; Livermore, of New Hampshire, and others, and was negatived. * * *

"In the course of the debate severe allusions were made to the conduct of particular States; and the opinions advanced in support of the measure were ascribed to local interests.

"After an animated discussion of several days, the question was taken, and the resolution was carried by a small majority; but soon afterwards the delegation from North Carolina took their seats and changed the strength of the parties. By a majority of two voices"—31 to 29—"the resolution was recommitted and negatived.

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This act, which has never been repealed, compels every person, corporation, State, and even the United States, whenever a necessity arises, to purchase, lease or employ in any way any ship or vessel, to make the purchase, etc., in the "home market"; and it is not necessary to assure the reader that every advantage has been taken which the act permits.

More than a century has this monopoly been fleecing the people, either directly, whenever they have had occasion to purchase or hire a vessel, or indirectly, through the military branch of the Federal Government whenever it has needed to purchase or hire transports for troops or war material. The delay in transporting troops, etc., to Cuba, Manila, etc., during the present war with Spain is familiar to readers of newspapers. "Outrageous prices," as the Philadelphia Record calls them, have been charged by the ship-owners. On the 17th of September, 1898, a check for $1,475,000 was given in payment of the rental of four ocean steamers of the American line, which were in the Federal service "for an average period of nearly one hundred and twenty days." This is about $3,070 per day for each ship, or $820,550 per year; and the last sum is about five times the total cost ($165,868) of the fifteen iron and steel steamships built in Pennsylvania in 1889.—Census, 1890, Manf. Ind., Part 3, 564.

How large a stream of wealth this paternalism has caused to flow from the South to the North, and chiefly to New England, we may never know; but we may not err greatly if we draw inferences from the parallel paternalism complained of in the address to "the Inhabitants

of Great Britain," July 8, 1775, by "The Twelve United Colonies," as follows: "It is alleged that we contribute nothing to the common defense. To this we answer that the advantages which Great Britain receives from the monopoly of our trade far exceeds our proportion of the expense necessary for that purpose."[1] And we may reach a more definite conclusion from the testimony of a witness who had opportunities of observing the operations of these laws. It was Mathew Carey, who, on page 268 of his Olive Branch, said:

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More than a century has this monopoly been fleecing the people, either directly, whenever they have had occasion to purchase or hire a vessel, or indirectly, through the military branch of the Federal Government whenever it has needed to purchase or hire transports for troops or war material. The delay in transporting troops, etc., to Cuba, Manila, etc., during the present war with Spain is familiar to readers of newspapers. "Outrageous prices," as the Philadelphia Record calls them, have been charged by the ship-owners. On the 17th of September, 1898, a check for $1,475,000 was given in payment of the rental of four ocean steamers of the American line, which were in the Federal service "for an average period of nearly one hundred and twenty days." This is about $3,070 per day for each ship, or $820,550 per year; and the last sum is about five times the total cost ($165,868) of the fifteen iron and steel steamships built in Pennsylvania in 1889.—Census, 1890, Manf. Ind., Part 3, 564.

How large a stream of wealth this paternalism has caused to flow from the South to the North, and chiefly to New England, we may never know; but we may not err greatly if we draw inferences from the parallel paternalism complained of in the address to "the Inhabitants

of Great Britain," July 8, 1775, by "The Twelve United Colonies," as follows: "It is alleged that we contribute nothing to the common defense. To this we answer that the advantages which Great Britain receives from the monopoly of our trade far exceeds our proportion of the expense necessary for that purpose."[1] And we may reach a more definite conclusion from the testimony of a witness who had opportunities of observing the operations of these laws. It was Mathew Carey, who, on page 268 of his Olive Branch, said:

"The naked fact is that the demagogues in the Eastern States, not satisfied with deriving all the benefits from the Southern States, that they would from so many wealthy colonies—with making princely fortunes by the carriage and exportation of their bulky and valuable productions—and supplying them with their own manufactures, and the manufactures and productions of Europe and the East and West Indies, to an enormous amount, and at an immense profit, uniformly treated them with outrage, insult, and injury."

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In his *Road to Ruin*, objecting to the transfer of capital from commerce to manufacturing, he declared that commercial gains were *50 per cent*, while factories could never yield more than 20 per cent!

And the testimony of these witnesses is corroborated by the extent of the operations of those engaged in commerce. Their sails whitened every harbor in the commercial world; through their agents foreigners received their impressions of the character, skill, enterprise, and spirit of the people of all these States; and, when the

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CHAPTER VIII.

REVOLUTIONARY WAR DEBT—HOW NORTHERN TRADERS AND SPECULATORS WERE ENRICHED AT THE EXPENSE OF THE SOUTHERN PEOPLE BY THE MANIPULATION OF THE CONTINENTAL AND STATE DEBTS.

In the month of January, 1790, Mr. Hamilton, the Secretary of the Treasury, laid before the House of Representatives, at its request, "a plan for the support of the public credit," proposing that the debts of the separate States be assumed by the Congress (without a shadow of Constitutional authority),[1] and that they, together with the debts contracted by the Continental Congress, be funded, provision for their payment to be made by impost duties, excises, etc., instead of grants of the "waste lands" which had been ceded by certain States.

"Several resolutions," says Marshall's Life of Washington, "affirmative of the principles contained in the report of the Secretary, were moved by Mr. Fitzsimmons, of Pennsylvania. To the first, which respected a provision for the foreign debt"—$11,710,000—"the House agreed without a dissenting voice. The second, in favor of appropriating permanent funds for payment of interest on the domestic debt, etc., gave rise to a very

[1] In the Philadelphia Convention, August 21, Mr. Livingston of the committee, appointed on the 18th, reported that "the Legislature of the United States shall have power to discharge as well the debts of the United States as the debts incurred by the several States during the late war." The report was postponed.

On the next day Mr. Morris moved to amend Mr. Livingston's report so that it would read as follows: "The Legislature shall fulfill the engagements and discharge the debts of the United States," thus striking out the State debts. This was agreed to unanimously. —El. Deb., I, 256-57.

animated debate." An amendment to allow the public creditors only the then market value of their paper—one-eighth of its face value—"was opposed by Messrs. Boudinot, of New Jersey; Lawrence, Ames, and Goodhue, of Massachusetts; Hartley, of Pennsylvania; and Sherman, of Connecticut, and was defeated."

"Mr. Madison," says Marshall, "then proposed to pay the present holder of assignable paper the market price, and give the remainder"—seven-eighths of its face value—"to the original holder. This was opposed by Messrs. Sedgwick, Lawrence, Ames, Gerry, and Goodhue, of Massachusetts; Boudinot, of New Jersey; Hartley, of Pennsylvania; Livermore, of New Hampshire, and others, and was negatived. * * *

"In the course of the debate severe allusions were made to the conduct of particular States; and the opinions advanced in support of the measure were ascribed to local interests.

"After an animated discussion of several days, the question was taken, and the resolution was carried by a small majority; but soon afterwards the delegation from North Carolina took their seats and changed the strength of the parties. By a majority of two voices"—31 to 29—"the resolution was recommitted and negatived.

"A proposition to assume specific sums from each State was then urged, but with no better success."

Now, laying aside Marshall for awhile and turning to Maclay's Journal, we get a better insight into the motives and manœuvers of the plotters. His account begins some four months before Hamilton's plans were submitted to the Congress. We quote extracts:

"August 28, 1789. There was a meeting of the Pennsylvania delegation. * * * The Chief Justice of Pennsylvania and Mr. Petit"—Chairman of the Public

Creditors—"attended with a memorial from the public creditors. * * * But it seems there was a further design in the meeting. Mr. Morris" (Maclay's colleague) "attended to deliver proposals from Mr. Hamilton on the part of the New England men, etc. Now, after the Eastern members have in the basest manner deserted the Pennsylvanians,[1] they would come forward with proposals from Mr. Hamilton. * * * I spoke early, and declared that * * * their only view was to get a negotiation on foot between them and the Pennsylvanians that they might break the connection that is begun between the Pennsylvanians and the Southern people. * * *

"January 14, 1790. This day the 'budget' as it is called"—Hamilton's report—"was opened in the House of Representatives. An extraordinary rise in certificates has been remarked for some time past. This could not be accounted for, neither in Philadelphia nor elsewhere. But the report from the Treasury explained all. * * 'Tis said a committee of speculators in certificates could not have formed it more for their advantage.

"January 15. The business of yesterday will, I think, in all probability damn the character of Hamilton forever. It appears that a system of engrossing" (buying up) "certificates has been carrying on for some time. Whispers of this kind come from every quarter. Dr. Elmer" (New Jersey Senator) "told me that Mr. Morris must be deep in it, for his partner, Mr. Constable, of this place" (New York), "had one contract for forty thousand dollars. The Speaker" (Muhlenberg, of Pennsylvania, who roomed in the same building with Maclay) "hinted to me that General Heister" (a Pennsylvania Representative) "had brought over a sum of money

[1] Maclay refers to the bargains between the speculators and the advocates of certain places for the location of the Federal Capital.

from Mr. Morris for this business: he said the Boston people were concerned in it. * * * Mr. Langdon" (Senator from New Hampshire), "the old and intimate friend of Mr. Morris, lodges with Mr. Hazard. Mr. Hazard has followed buying certificates for some time past. He told me he had made a business of it: it is easy to guess for whom. I told him, 'You are, then, among the happy few who have been let into the secret.' He seemed abashed, etc.

"The Speaker gives me this day his opinion that Mr. Fitzsimmons," (of Pennsylvania, Chairman of the Ways and Means Committee in the House of Representatives) "was concerned in this business. * * *

"January 18. Hawkins, of North Carolina" (who took his seat in the Senate five days before this), "said as he came up from his home he passed two expresses with very large sums of money on their way to North Carolina for purposes of speculation in certificates. Wadsworth" (a Connecticut Representative) "has sent off two small vessels for the Southern States, on the errand of buying up certificates. I really fear the members of Congress are deeper in this business than any others. [1]

"February 1. Mr. Hamilton is very uneasy, as far as I can learn, about his funding system. He was here" (at the boarding house) "early to wait on the Speaker, and I believe spent most of his time in running from place to place among the members.

"February 15. * * * Sedgwick, Lawrence, Smith and Ames took the whole day. They seemed to aim all

[1] The people outside, including those in the Southern States, were kept in ignorance of what was going on in Congress. As late as February 25, 1791, a motion to open the doors of the Senate to the public was defeated.—Maclay, page 401.

at one point, to make Madison ridiculous.[1] Ames * * had 'public faith,' 'public credit,' 'honor, and above all, justice' as often over as an Indian would the 'Great Spirit,' and, if possible, with less meaning and to as little purpose.

"February 19. * * * A funding system will be the consequence—that political gout of every government which has adopted it.

"With all our Western lands for sale and purchasers every day attending at the Hall begging for contracts! What villainy to cast the debt on posterity! But pay the debt! The speculators who now have them nearly all engrossed, will clear above three hundred per cent.

"February 22. * * * Fitzsimmons gave me notice of a meeting of the Pennsylvania delegation. * * I went. The ostensible reason was to consult on the adoption of the State debts, but the fact to tell us that they were predetermined to do it. Mr. Morris swore 'By G— it must be done.'[2] * * *

"March 2. * * * The Speaker was at the (President's) levee to-day. When he came home, he said the State debts must be adopted. This, I suppose, is the language of the Court.

"March 9. In the Senate chamber this morning Butler (South Carolina) said he heard a man say he would give Vining (Delaware's Representative) one thousand guineas for his vote. * * * At length they risked

[1] This was because he proposed to pay the difference between the face and the market price of certificates to the original holders.

[2] This interesting information is taken from Alden's Cyclopœdia: "He (Morris) was elected, 1788, to the first Senate. * * * The office of Secretary of the Treasury, offered him by President Washington on the formation of his first Cabinet, was declined with the recommendation that Alexander Hamilton be appointed," Mr. Morris having "been familiar with his views on the National finances since 1781."

the question, and carried it, thirty-one votes to twenty-six; * * * and this only in Committee (of the Whole), with many doubts that some will fly off (on a roll call), and great fears that the North Carolina members will be in before a bill can be matured or a report gone through.

"March 29. * * * This day the House of Representatives took up the report of the Committee of the Whole House on the Secretary's report; and after adopting the first three clauses (funding the Federal certificates), recommitted the one on the assumption of the State debts—twenty-nine to twenty-seven; so that I hope this will be rejected at last.

"April 3. * * * The New England men despair of being able to saddle us with their debts, and now they care not whether they do any business or not.

"April 12. * * * The question was, however, taken and lost, thirty-one against it and twenty-nine for it, * * * Sedgwick, from Boston, pronounced a funeral oration over it. * * * Fitzsimmons reddened like scarlet * * * Clymer's (Penn.) color, always pale, now verged to a deadly white. * * * Benson (New York) bungled like a shoemaker who has lost his end. Ames's aspect * * * was torpid, as if his faculties had been benumbed. Gerry exhibited the advantages of a cadaverous appearance. * * * Through an interruption of hectic lines and consumptive coughs he delivered himself of a declaration that the delegates of Massachusetts would proceed no further (withdraw from Congress), but send to their State for instructions. Happy impudence sat enthroned on Lawrence's brow. * * * Wadsworth hid his grief under the rim of a round hat. * * *

"April 26. This day Mr. Clymer (Pennsylvania) made his famous speech for throwing away the Western world.

A noble sacrifice, truly, to gratify the public creditors of Philadelphia. Reject territory of an extent of an empire so that it may be out of the power of Congress to oblige the public creditors to take any part of it."

Thus Maclay's Journal reaches the point where we dropped Marshall—the point where the latter proceeds as follows:

"In this state of things the measure is understood to have derived aid from another, which was of a nature to strongly interest particular parts of the Union. * *

"From the month of June, 1783, when the Continental Congress"—it was the Congress of the Confederation—"was driven from Philadelphia to New York by a mutiny of a part of the Pennsylvania line," much feeling had been manifested in various sections with reference to the permanent seat of the Federal Government.

"At length a compact respecting the temporary and permanent seat of Government was entered into between the friends of Philadelphia and the Potomac, whereby it was stipulated that the Congress should adjourn to and hold their sessions in Philadelphia for ten years, during which time buildings should be erected at some place to be selected on the Potomac; and a bill which was brought forward in the Senate * * * passed both Houses by small majorities.[1] *This act was immediately followed by an amendment to the funding bill*"—consideration of which had been postponed till the bargain could be consummated—"assuming twenty-

[1] It passed the Senate by 14 to 12; and of its passage in the House, Hildreth (Sec. Ser., I, 212) says: "But as the secret of the bargain of which it formed a part had been communicated to a few only of the Northern members, just sufficient to secure its passage, it then encountered a violent opposition. The yeas and nays were called upon it no less than thirteen times, and it finally passed only by the close vote of 32 to 29."

one millions five hundred thousand dollars of the debts of the States; and in the House two members representing districts on the Potomac, who had all along voted against the assumption, declared themselves in its favor, and the majority was changed."

Thus closes Marshall's report of the proceedings on page 260 of the fifth volume. The effect of this legislation is not touched upon till we reach page 299. There he says: "As an inevitable effect of the state of society, the public debt had greatly accumulated in the Middle and Northern States, whose inhabitants had derived from its rapid appreciation a proportional augmentation of their wealth."

The augmentation of their wealth can be appreciated when we examine the reports of the Treasury. The disbursements during the first seven administrations, including those for the Louisiana purchase, the War of 1812, and the purchase of Florida, are given on page 1,549, Volume 2, of the Statesman's Manual, as follows:

Administration.	Ordinary Expenses.	Public Debt.
Washington's	$15,892,708	$36,090,946
J. Adams's	21,348,351	18,957,962
Jefferson's	41,100,787	65,186,398
Madison's	144,684,939	83,428,942
Monroe's	104,363,446	101,366,111
J. Q. Adams's	50,501,914	45,303,533
Jackson's	144,546,404	65,532,603

Of these disbursements the ordinary expenses during the first three administrations were $78,341,846, and the public debt payments were $120,235,306; and since the total debt in 1791 was $75,464,000, of which the portion due to foreigners was $11,700,000, 80 per cent of this $120,235,306, or $101,000,000, was the share of Northern speculators, whereas they were entitled to only one-eighth of this sum, or $12,625,000. Their clear gain, therefore, since the average population for the first

three censuses was 5,492,526, was about $80 out of the pockets of every average family of five persons, including all the slaves.

The reader is no doubt surprised that President Washington approved such a measure; but if he could realize the dangers threatening the Union if the bill had been vetoed, his surprise would vanish. Maclay says, March 22, 1790, that "there seems to be a general discontent among the members, and many of them do not hesitate to declare that the Union must fall to pieces at the rate we go on." On July 1, 1790, Senator Rufus King, of New York, disappointed in his efforts to have Congress remain in the city of New York, "sobbed, wiped his eyes, and scolded and railed and accused * * * of bargaining, contracting arrangements and engagements that would dissolve the Union." On July 16, after it had been decided that Congress should go to Philadelphia for ten years, Maclay says: "I whispered to Mr. Morris, now he had got the residence (of Congress), it was our province to guard the Union and promote the strength of the Union by every means in our power, otherwise our prize would be a blank." On July 18 Mr. Morris said to the Pennsylvania delegation that, if Congress adjourned without passing the funding and assumption measures, "it might go to shake and injure the Government itself."

The alarm created by the hungry speculators, of which the present generation can have no adequate conception, included even Mr. Jefferson, the Secretary of State, among its victims, and forced him into silence, if not acquiescence.[1]

[1] "Jefferson complains in his Ana that, having but lately arrived in New York" (he entered upon his duties as Secretary of State March 22, 1790, two months and eight days after Hamilton's funding scheme was proposed), "he was 'most ignorantly and innocently

So it was almost a case of "stand and deliver!" "Give us the privilege of being quartered on the people, or we will disrupt the Union, which is so dear to your heart!"

It is hardly necessary to add here that, as Jefferson said, "this measure produced the most bitter and angry contest ever known in Congress before or since the union of the States," or that it engendered in the hearts of the Southern people a resentment against its authors as well as its beneficiaries, which was handed down from father to son long after the cause of it had become a shadowy tradition, or that the quiet submission of the masses of the people to this and other subsequent acts of sectional injustice was due mainly to their want of understanding as to the method of taxing them. If the burden had been understood, as the whiskey tax was in Western Pennsylvania, the President might have needed more than 16,000 troops to put down the insurrection.

Nor is it necessary to point out the immense superi-

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made to 'hold the candle' in this intrigue, being duped into it by the Secretary of the Treasury, and made a tool of for forwarding his schemes, not then sufficiently understood. Hamilton, it seems, applied to Jefferson for his aid and cooperation as a member of the Cabinet in calming an excitement, and bringing about the settlement of a question which seemed to threaten the very existence of the Federal Government. Jefferson proposed to Hamilton to dine with him next day, on which occasion he would invite another friend or two to see whether it 'were not possible, by some mutual sacrifice of opinion, to form a compromise to save the Union.' At this dinner party the subject was discussed, Jefferson, as he assures us, taking 'no part but an exhortatory one'; and finally it was agreed that, for the sake of the Union, White and Lee, two of the Virginia members, should change their votes on the question of assumption."—Hildreth, Second Series, Volume I, pages 211-12.

But Mr. Jefferson's name was used by the promoters of the corrupt bargain, and he was represented to be one of their supporters. "Mr. Morris," says Maclay, page 294, "also repeated Mr. Jefferson's story, but I certainly had misunderstood Mr. Morris at the Hall, for Jefferson vouched for nothing."

ority of the Northern States in banking facilities, conferred on them by this act, or their superior ability in manufacturing when "protection" began to invite capital into that business.

But there was a lesson in this vile business far more damaging than its injustice; it taught corrupt schemers that the forms of law could be used as a means of robbing the people, while the Constitution provided no tribunal before which their cause could be pleaded. And this lesson became "the direful spring of woes unnumbered"; it laid the foundations of the long struggle for sectional supremacy. If "justice," "domestic tranquillity," "the common defense," "the general welfare," and "the blessings of liberty" had been the sole object of Federal legislation, there could not possibly have been any motive for sectional discontent, and the long and disgraceful struggle for sectional domination, rendered more disgraceful during the last forty years by malignity, mendacity and insolence.[1]

[1] Washington's anxiety for the preservation of the Union, which such legislation as this was threatening to destroy, was his leading motive for accepting a second term. Jefferson wrote to him: "The confidence of the whole country is centered in you. * * * North and South will hang together if they have you to hang on." And Hamilton wrote: "It is clear that if you continue in office nothing materially mischievous is to be apprehended; if you quit, much is to be dreaded."

CHAPTER IX.

THE UNITED STATES BANK—ANOTHER SCHEME TO ENRICH NORTHERN TRADERS.

In order to still further "strengthen the public credit" and enhance the value of the public securities, the first Congress, under the advice of Secretary Hamilton, converted Robert Morris's Bank of North America into The Bank of the United States. There was no Constitutional authority for such an act; indeed, the power to do it was deliberately withheld in the framing of the Constitution; but it accorded with the views of Mr. Hamilton thus expressed in the Philadelphia Convention: "We must establish a general and National Government, completely sovereign, and annihilate the State distinctions and State operations; and unless we do this, no good purpose can be answered."[1] It was in fact, as President Jackson said in his seventh annual message, "but one of the fruits of a system at war with the genius of all our institutions—a system founded upon a political creed * * * whose great ultimate object, and inevitable result, should it prevail, is the consolidation of all powers in our system in one central government."

As on the question of assumption, the division was mainly between the North and the South. The principal advocates of the charter in the Senate, according to Maclay, were King, of New York; Ellsworth, of Connecticut; and Strong, of Massachusetts; and the leading opponents were Izard and Butler, of South Carolina, and Monroe, of Virginia.

The capital of the bank was to be $10,000,000, of which the Federal Treasury was to subscribe $2,000,000

[1] Yates, page 141.

in specie, and private stockholders to subscribe the remaining $8,000,000, one-fourth of it in specie and three-fourths of it in public securities or "certificates"; but since the certificates at that time, according to Maclay, were worth only 81¼ per cent of their nominal value, here was a "gratuity," as President Jackson called it in his message vetoing the bank bill, "of many millions of dollars to the stockholders."

This was in principle as vile a scheme of robbery as the assumption was; and justly did President Jackson denounce its authors in the following language (eighth annual message): "The facts that the value of the stock was greatly enhanced by the creation of the bank, that it was well understood that such would be the case, and that some of the advocates of the measure were largely benefited by it, belong to the history of the times, and are well calculated to diminish the respect which might otherwise have been due to the action of the Congress which created the Institution."

The meagre report of the discussion of the measure in the Senate, and of the conduct of some of the members—especially his colleague—reveals a deep disgust in Maclay, and warrants the following remark: "I am now more fully convinced than ever before of the propriety of opening our doors. I am confident some gentlemen would have been ashamed to have seen their speeches of this day reflected in the newspapers of to-morrow."

The amount of wealth belonging to other people thus transferred to the traders and speculators of the Northern States can never be ascertained; but since they drew 6 per cent on their certificates out of the Federal Treasury, and at least twice as much on the bank notes issued on the certificates as a basis of circulation, their income from the certificates was about 22 per cent of their value

at the time of their subscription; and, as this was an annual increment for many years, we may believe that this bank was one among the powerful forces which transferred the money of the South to the traders and speculators of the North, and thus weakened the ties which bound the Southern States to the Union.

CHAPTER X.

REVOLUTIONARY PENSIONERS—ANOTHER AVENUE OF APPROACH TO THE PEOPLE'S TREASURY.

Among the avenues of approach to the pockets of the Southern people pension legislation was at an early day found to be safe and easy. And it was soon thronged, as it is to-day, by the undeserving as well as the deserving.

The evidence on this point is here copied from a speech delivered in the Senate of the United States, June 28, 1854, by Senator Butler, of South Carolina, in a debate with Senator Sumner, of Massachusetts. It was an extract from a pamphlet written by a Virginian, Mr. Garnett.[1] It is here condensed as follows:

"The white male population over sixteen years of age in 1790 (the first census) was in Pennsylvania 110,788, and in Virginia 110,934; yet according to General Knox's (Secretary of War) official estimate, presented to the first Congress, Virginia furnished 56,721 soldiers to the Revolution, and Pennsylvania only 34,965. New Hampshire had a military population 513 larger than South Carolina, yet she contributed only 14,906 soldiers to South Carolina's 31,131. South Carolina's exceeded New York's 29,836, though New York had much more than double the military population, and 40 per cent more of total population. Connecticut and Massachusetts did more than any of the free States; yet we find that while South Carolina sent to its armies 37 out of every 42 citizens capable of bearing arms, Massachusetts sent but 32, Connecticut 30, and New Hampshire 18.

[1] Perhaps Robert S. Garnett, a Representative in Congress from 1817 to 1827.

"We will pass at once to consider the action of the Federal Government, and its value to the North when the South was no longer her own mistress. The pension system throws a strong light on the tendency of the people of the free States to quarter themselves on the general Government. A calculation, founded on data in Senate Document 307, 1838–'39, shows that from 1791 to 1838, inclusive, $35,598,964 had been paid for Revolutionary pensions, of which the North received $28,262,597, or $127.29 for every soldier she had in the war, and the South $7,336,365, or $49.89 for each of her soldiers. The number of soldiers is here estimated according to Knox's report, which confessedly does not show, by a great deal, the full exertions of the South in raising troops.[1] Let us then compare the amounts received with the white population of each section in 1790; and we find the free States in 1838 had received $14.35 of Revolutionary pensions for every soul in their limits in the former year, while the South had received only $5.61 for every white person in 1790.

The seven free States contributed to the expenses of the war,	$61,971,170
They had received in pensions up to 1838,	28,262,597
Balance in their favor,	33,708,573
The six slave States contributed,	52,438,123
They had received in pensions up to 1838,	7,336,367
Balance in their favor,	45,101,756

"To appreciate this injustice fully we must remember

[1] Hundreds of gentlemen here and there in the South volunteered for special occasions—as to meet the British at King's Mountain—and failed to preserve records of their services; and General Knox says that, "in some years of the greatest exertion of the Southern States, there are no returns whatever of the militia."—American State Papers, Military Affairs, Volume I, page 14.

that the South not only paid into the Federal Treasury all she ever received back in pensions, but also $16,663,633 of the pensions given to the North. The inequality of the apportionment has grown with the Northern majority in Congress. In the first decennial period, 1791–1800, the free States received annually $58,000 more than the South. In the next period this yearly excess was diminished to $43,000, but it rose to $339,000 in the third period. From 1821 to 1830 it averaged $779,000, and from 1831 to 1838, $855,000. In like manner grew the burden upon the South in paying the pensioners at the North, besides those at home. In the last period of eight years it was $9,750,000.

"According to General Knox's report the North sent to the army 100 men for every 227 of military age in 1790, and the South 100 for every 209. But in 1848 one out of every 62 of military age in 1790 was a Revolutionary pensioner in the North, and only one out of every 110 in the South. New England alone had 3,146 of these pensioners more than there were in all the slave States; and New York two-thirds as many, though she contributed not one-seventh as much to the war.

"The results are equally remarkable, if we have regard to the whole number of pensioners, Revolutionary and others. The expenses under this head for the four years ending in 1837, were $8,010,051 in the free States, and $2,588,101 in the slave States. New England alone received $3,924,911, rather more than $2 a head for every man, woman, and child in her limits. During the same four years she paid in taxes to the Federal Treasury, according to our tables,[1] $1.72 per head. In 1840 there were not quite two and one-half times as many pensioners at the North as at the South, but in 1848

[1] Mr. Garnett's Pamphlet has not been found.

there were more than three times as many. New England had more Revolutionary pensioners than the five old plantation States had pensioners of all kinds"—Revolution, War of 1812, Indian wars, etc.

So, it seems, the soldiers of the North who fought in the Revolution were quartered on the South just as those who "saved the life of the Nation" have been, though not to the same extent. And there is no ground for surprise at the following remark of Senator Butler in the speech referred to above:

"The truth is, it is a wonder that South Carolina ever went to the rescue of Boston. Boston made the war with Great Britain. She was the first."

It also appears that after Massachusetts had precipitated a conflict with Great Britain, and appealed for cooperation to the other Colonies, South Carolina sent to the war 88 per cent of her military population while Massachusetts sent only 76 per cent, although Massachusetts was engaged in active hostilities several months before South Carolina was.

And, dear reader, this magnanimous recognition of "the cause of Boston as the cause of all" was afterwards held to be, *ipso facto*, a renunciation of South Carolina's sovereignty; and the pretension was supported not only by argument but by fire and sword, and shot and shell!

NOTE.—Since the foregoing was written the document referred to (Senate, No. 307, third session, Twenty-fifth Congress) has been examined. It presents some interesting tables, of which the following is reproduced here as a sample, the States being rearranged so as to preserve the distinction between the North and the South which was made by Mr. Garnett.

In 1820 pension disbursements were as follows:

In New Hampshire,	$130,116
Vermont,	128,093
Massachusetts,	222,114
Rhode Island,	22,603
Connecticut,	120,722
New York,	378,806
New Jersey,	42,244
Pennsylvania,	135,832
Ohio,	74,914
Total for the North,	1,255,444
In Delaware,	$6,262
Maryland,	44,358
Virginia,	74,212
North Carolina,	21,843
South Carolina,	12,881
Georgia,	6,206
Tennessee,	28,073
Kentucky,	55,064
Total for the South,	248,899

Now, the number of soldiers furnished by the two sections, according to General Knox, was, in round numbers, 222,000 by the North, and 147,000 by the South; and a simple calculation shows that this pension money was equal to $5.65 for every soldier of the North, and $1.69 for every soldier of the South. And from the contemplation of this marked difference between the men of the two sections in the purpose to have themselves quartered, even deservedly, on the taxpayers of the Union, the mind instinctively turns to that great Southern man who refused any salary as commander-in-chief of the military forces of the States, and afterwards as President of the United States.[1]

[1] People who are not familiar with pension legislation will be interested in knowing that the claims of applicants who can not come in under general laws are referred to a Pension Committee, and, if a

favorable report is made, a special act is usually passed placing the applicant on the pension roll. Such is the chief business now of Friday night sessions, and has been for over thirty years.

But how the Revolutionary soldiers of the North got themselves quartered on the South may possibly be explained by the following remarks of President J. Q. Adams in his first annual message:

"The operation of the laws relating to the Revolutionary pensioners may deserve the renewed consideration of Congress. The Act of 18th of March, 1818, while it made provision for many meritorious and indigent citizens who had served in the war of independence, opened a door to numerous abuses and impositions. To remedy this, the Act of 1st May, 1820, exacted proofs of absolute indigence, which many really in want were unable, and all susceptible of that delicacy which is allied to many virtues, must be deeply reluctant to give. The result has been, that some among the least deserving have been retained, and some in whom the requisites both of worth and want were combined, have been stricken from the list."—Stats. Man., Volume I, page 587.

CHAPTER XI.

UNJUST AND UNCONSTITUTIONAL DISPOSAL OF THE PUBLIC LANDS.

From the unfair distribution of pension disbursements we proceed to a phase of sectional legislation far more reprehensible, and far more damaging to the people of the Southern States, particularly those of the original thirteen. It is the disposal of the public lands.

The honest, truth-loving, and justice-loving people throughout the civilized world have unanimously set the seal of their condemnation on the administration of the public lands—the *ager publicus*—of ancient Rome, their right to condemn being founded on the self-complacent assumption that no such misgovernment could be possible in this age of enlightenment and Christian civilization. But a parallel—and worse than parallel—can be found in the United States.

Such is the testimony of official records; and to these the reader's attention is now invited.

Before entering upon them, however, a thorough understanding of the lesson they teach requires a brief preliminary history of the sources from which and the conditions on which the United States acquired the right to dispose of the public lands.

After the Colonies declared themselves to be free and independent States, there was a want of perfect harmony in their councils because the immense bodies of unsettled lands in certain States (particularly Virginia, North Carolina, and Georgia) would, in the event of a successful termination of the war, become a mine of wealth to the States in which they lay, to the exclusion of the less fortunate States by whose cooperation these lands would be wrenched from the control of George III.

The first formal effort to remove this cause of dissatisfaction was made in the Continental Congress while it was engaged (October, 1777) in considering a committee report on the proposed Articles of Confederation. A motion was made to insert a clause conferring on the "United States in Congress assembled" the power to "ascertain and fix the western boundary of such States as claim to the Mississippi or South Sea, and lay out the land beyond the boundary so ascertained into separate and independent States, from time to time"; but Maryland was the only State which voted for it.

On the submission of the Articles to the State Legislatures with the request for instructions to their respective delegations in Congress to approve and sign them, objection was made to them in several States because of the failure to provide for the transfer of the "waste lands" to the United States as common property. All of them, however, except Maryland, acceded to the Confederation, some of them declaring that their claim to the lands as common property was not thereby abandoned.

In 1780 New York, in order to "contribute to the tranquillity and safety of the United States of America," and to promote a "Federal alliance on such liberal principles as will give satisfaction to its respective members," tendered a cession of her claims to the western territory.[1]

The persistent refusal of Maryland to enter into the Confederation, and the consequent unsatisfactory prog-

[1]The reader is requested to note New York's language. There was nothing so far but an informal union of the States; and when she ratified the Articles she declared that her ratification should be binding only after every other State ratified. And yet some of our most distinguished statesmen have insisted that after July 4, 1776, New York was simply a fraction of the "American Nation."

ress of the war, led to the adoption by the Congress, in the same year, of a preamble and a resolution on the subject, of which the following is sufficient for the present purpose: "That it appears advisable to press upon those States which can remove the embarrassments respecting the western country, a liberal surrender of a portion of their territorial claims, since they can not be preserved entire without endangering the stability of the general Confederacy; to remind them how indispensably necessary it is to establish the Federal Union on a fixed and permanent basis, and on principles acceptable to all its respective members."

Soon afterwards, in the same year, a resolution was passed containing the pledge to the States that whatever lands should be ceded "shall be disposed of for the common benefit of the United States."

New York's deed of cession, executed March 1, 1781, and accepted in October, 1782, contained the condition that the lands ceded "shall be and inure for the use and benefit of such of the United States as shall become members of the Federal alliance of the said States, and for no other use or purpose whatsoever."

January 2, 1781, Virginia was moved by the disheartening pace at which the war was dragging its slow length along, and perhaps by the smoke of Arnold's fires down the James, to offer a cession of her claims to the lands north of the Ohio; but some of her conditions were not acceptable, and the Congress thought it best to postpone acceptance till the conditions were modified.

But Virginia's action and the pledge of the Congress induced Maryland to ratify the Articles and complete, March 1, 1781, the Union of the States.[1]

[1] In No. XXXVIII of the Federalist (Madison) this passage occurs: "One State, we may remember, persisted for several years in refus-

On October 20, 1783, the Virginia Legislature passed an act, in which the objectionable conditions were withdrawn, and her deed of cession was executed on the 1st of March, 1784. It contained substantially the same proviso as New York's deed, namely, that the lands should be "considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the Confederation or Federal alliance of the said States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever."—Hinsdale, 242.

During the three succeeding years Massachusetts and South Carolina ceded their claims to vacant lands, and Connecticut ceded hers, except that she reserved what has since been known as the Western Reserve—all of them imposing the same condition as that copied from Virginia's deed.

In 1784 North Carolina offered a cession of her title

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ing her concurrence, although the enemy remained the whole period at our gates. * * * Nor was her pliancy in the end effected by a less motive than the fear of being chargeable with protracting the public calamities, and endangering the event of the contest."

And he might have added that Virginia's consent to cede her lands was supposed to be due to Arnold's invasion of the State in the winter of 1780–'81.

And the question may well be asked, whether Maryland would have yielded at any time, if she could have foreseen the hostile occupation of Baltimore, May 5, 1861, by Massachusetts troops under Gen. Benjamin F. Butler, the disarming of the citizens by that officer, the arrest and confinement in Fort McHenry of George P. Kane, Marshal of the city police, the government of the city usurped by Gen. N. P. Banks, another Massachusetts officer, who succeeded Butler, and the arrest and confinement of every prominent man in the State—including thirteen members of the Legislature when it assembled—who was unwilling to submit tamely to "the despot's heel."

to Tennessee, but it was not accepted. In December, 1789, however, another offer was made, and a deed was executed February 25, 1790.

And in 1802 Georgia ceded her title to the territory which afterwards became Alabama and Missisippi, receiving in the adjustment of her "Yazoo claims" $6,200,000—she and North Carolina imposing the conditions imposed by Virginia.[1]—State Papers, 1st sess., 10th Cong.

On the express condition, therefore, that the "waste lands" should be disposed of for the common benefit of all the States were they placed under the control of the Congress, that body being empowered by the States "to dispose of and make all needful rules and regulations respecting" them.

Thus far we have accounted for all the "waste lands" belonging to the States up to 1803, except Kentucky and Vermont. The offer of bounty lands in the "District of Kentucky" by the Legislature of Virginia to those of her citizens who had been employed in her military service, and the purchase of Transylvania by Henderson's Company, led to numerous settlements; and the desire of the growing population for admission into the Union as an independant State induced Virginia to give her consent December 18, 1789; and the new State was admitted February 4, 1791. Vermont, a bone of contention between New York and New Hampshire, asserted its independence and organized a government in January, 1777, maintained its independence all through the war and the period of the Confederation; and New York, relinquishing her claims to the unappropriated

[1] Those who are fond of ancient history will be interested in the following proviso in North Carolina's deed (and substantially the same in Georgia's): "No regulations made or to be made shall tend to emancipate slaves" in the ceded territory!

lands in consideration of $30,000, she was admitted into the Union March 4, 1791.

In 1803 was inaugurated the policy of acquiring foreign territory (without Constitutional authority).[1]

In that year the people of the United States paid or bound themselves to pay $27,267,621 for the Louisiana Territory, and in addition thereto certain "French spoliation claims"; and subsequent purchases were as in the following table:

In 1819 Florida for	$6,489,768
1849 New Mexico and Arizona for	15,000,000
1850 Texas lands for	5,000,000
1853 Gadsden treaty lands for	10,000,000
1855 more Texas land for	7,500,000
1867 Alaska for[2]	7,200.000

The total cost of these lands up to 1883—the year in which the Public Land Commission made a full report of the purchases, sales, grants, etc.—was $94,353,383, including interest on the $5,000,000 of Texas stock.

In addition to this there had been paid for "quieting and purchasing the occupancy title of Indians" up to June 30, 1880, $187,328,904. To this, again, must be added the expenses of the survey and disposal of lands from March 4,1784, to June 30, 1880, amounting to $46,563,302. The grand total of the cost of the public lands, therefore, not including rents of buildings for the use of the General Land Office in Washington City, was $328,249,489.

These lands, paid for by all the States in proportion

[1] Mr. Jefferson said in a letter to Mr. Breckinridge that "the Constitution has made no provision for our holding foreign territory, and still less for incorporating foreign nations into our Union."—Stats. Man., I, 239.

[2] See Report of Public Land Commission, 1883, pages 17, 18 and 19.

to their several populations,[1] belonged to all the States as common property, and the Congress was morally bound to dispose of them, as well as the lands ceded by the States, for the common benefit.

Such is the history of the donated and purchased territory, and of the expressed or implied conditions imposed on the United States—conditions recognized as obligatory by the Committee on Public Lands in 1810, when they reported against allowing donations of land for services in the French-Indian war, declaring in their report: "Nor would the purposes for which the several States have ceded land * * warrant the appropriation of those lands for the satisfaction of the claims in question."[2]

But the records of Congressional legislation warrant the declaration which it is the object of this chapter to justify, that, in the disposal of the public lands, the rights of those who ceded or paid for them have not been faithfully respected—that a policy was adopted nearly eighty years ago, and has been followed ever since, of granting lands not only for purposes forbidden by the expressed or implied terms on which the control of them was acquired, but for purposes not included among the powers delegated by the States to any department or officer of the Federal Government.

Authority on the latter point would be superfluous if selfishness, ambition, and party spirit had not from the beginning sought to obscure the truth, and prepare the people for quiet submission to unauthorized legislation.

[1] It is beyond question that this statement could be very much modified if we had the necessary data. During all the years of these purchases the people of the Southern States consumed, per capita, a much larger share of imported goods than the people of the Northern States; and paid a correspondingly larger sum into the Federal Treasury.

[2] State Papers, Volume II, Second Session, Eleventh Congress.

In Mr. Jefferson's sixth annual message occurs the following passage, which strikes modern ears as a remarkable deliverance from the Executive mansion:

"When both these branches of revenue shall in this way be relinquished, there will still ere long be an accumulation of moneys in the treasury beyond the installments of the public debt which we are permitted by contract to pay. * * * The question, therefore, now comes forward: to what objects shall these surpluses be appropriated, and the whole surplus of import, after the entire discharge of the public debt?"[1] He then proceeds to advise that they be devoted "to the great purposes of the public education, roads, rivers, canals, and such other objects of public improvement as it may be thought proper to *add* to the Constitutional enumeration of Federal powers. * * * The subject is now proposed for the consideration of Congress, because, if approved by the time the State Legislatures shall have deliberated on this *extension* of the Federal trusts, and the laws shall be passed and other arrangements made for their execution, the necessary funds will be on hand and without employment. I suppose an amendment to the Constitution, by consent of the States, necessary, because the objects now recommended *are not* among those enumerated in the Constitution, and to which it permits the public moneys to be applied."

But the Constitution was not amended. And although Mr. Jefferson approved some acts of the Congress unwarranted by the Constitution as expounded by himself, no unbiased student of that compact can entertain a doubt of the soundness of his exposition.

This ought to be sufficient; but the importance of the subject will justify the summoning of one more witness.

[1] It is surprising that he did not recommend a reduction of tariff rates, and the avoidance of a surplus.

That witness was James Madison, an active and influential member of the Convention which framed the Constitution, the author of twenty-nine of the papers in the Federalist, and a controlling spirit (opposed by Patrick Henry, George Mason, James Monroe, Benjamin Harrison, and other able statesmen) in securing the adoption of the Constitution by Virginia. His veto message of March 3, 1817, contains the following:

"Having considered the bill * * * entitled 'An act to set apart and pledge certain funds for internal improvements,' and which sets apart and pledges funds 'for constructing roads and canals, and improving the navigation of watercourses, in order to facilitate, promote, and give security to internal commerce among the several States, and to render more easy and less expensive the means and provisions for the common defence,' I am constrained by the insuperable difficulty I feel in reconciling the bill with the Constitution of the United States, to return it with that objection. * * * *

"The legislative powers vested in Congress are specified and enumerated in the eighth section of the first article; * * * and it does not appear that the power proposed to be exercised by this bill is among the enumerated powers, or that it falls by any just interpretation within the power to make laws necessary and proper for carrying into execution those or other powers vested by the Constitution in the government of the United States.

"'The power to regulate commerce among the several States,' can not include a power to construct roads and canals, and to improve the navigation of watercourses * * * without a latitude of construction, departing from the ordinary import of the terms, strengthened by the known inconveniences which doubtless led to the grant of this remedial power to Congress. * * * To

refer the power in question to the clause 'to provide for the common defence and general welfare,' would be contrary to the established and consistent rules of interpretation, as rendering the special and careful enumeration of powers which follows the clause nugatory and improper. Such a view of the Constitution would have the effect of giving to Congress a general power of legislation, instead of the defined and limited one hitherto understood to belong to them; the terms 'common defence and general welfare' embracing every object and act within the purview of a legislative trust. * * *

"I have no option but to withhold my signature from it, cherishing the hope that its beneficial object may be attained by a resort for the necessary powers" to the States.[1]

But no amendment was proposed to the States; and from that day to the present the powers of Congress over education, roads, canals, and navigable or unnavigable watercourses have never been enlarged.

It is not among the objects of this presentation of truth to impugn the motives of all those who inaugurated or pursued the Governmental policy whose results, as will be shown, have enriched some States at the expense of others, and have "multiplied, developed, and strengthened the North" at the expense of the South. Their motives may, with exceptions, have been unimpeachable; and charity should prefer to attribute their disregard of the moral obligation imposed on them by their official stations to ignorance of their duties, to

[1] The correctness of this definition of the powers of Congress can not be impeached by producing evidence that Mr. Madison was not always governed by it. It is the deliberate interpretation of a written instrument by one who assisted in writing it, of whom a late sketch in a Cyclopœdia says: "In the knowledge of history and Constitutional law he was without a peer among the statesmen of his time."

ambition,[1] to party spirit,[2] or to the supposed behests of a code of morals superior to any written law.

The acts of the Federal Government disposing of the public lands, organizing governments in them, etc., fall easily and naturally into three groups, the first ending with April 30, 1789, and the second ending with March 4, 1861.

Since there was no "waste land" belonging to the United States at the time of the framing and adoption of the Articles of Confederation, no power was conferred on the "United States in Congress assembled" to dispose of the lands ceded by Virginia and other States; but as the lands were a "common stock"—property—there was no question of the right of the Congress to adopt measures for disposing of them according to the conditions of the cessions. As soon, therefore, as the United States came into possession of the Northwest Territory acts were passed for the sale of the lands.

But the Congress did not stop at the boundary prescribed by the donors. It overstepped them; and not only this, the celebrated ordinance for the government of the territory was adopted by *eight* States in the face of the promise that the assent of at least *nine* States should be necessary to the validity of any act disposing of the lands. On the question of the Constitutionality of the act of the Congress, even if nine States had assented, let us hear from Mr. Madison. In No. XXXVIII of the Federalist, he said:

"Congress has assumed the administration of the stock. They have begun to render it productive. Congress have undertaken to do more; they have proceeded to form new States, to erect temporary governments,

[1] See Note I.

[2] See Note K.

to appoint officers for them, and to prescribe the conditions on which such States shall be admitted into the Confederacy. All this has been done, and done without the least color of Constitutional authority."[1] One of the "conditions" in the Ordinance of 1787 was the anti-slavery article.[2] Such was the legislation during the first period; and it was an appropriate prelude to what came afterwards.

In establishing the precedents in the early years of the second period, however, there was faithful compliance with the Constitution and with the conditions imposed in the deeds of cession; and, what, with our modern ideas, might appear to have been nothing but paternalistic gratuities, were grants of land as compensation to organized communities for the relinquishment of certain rights which would belong to them when they became sovereign States. In other words, compacts were entered into between the United States and each one of such inchoate States, intended to restrain the latter from interfering with the "primary disposal" of lands within its borders or levying taxes so as to discriminate against non-resident purchasers.

When in 1802 the Congress was engaged in "laying out" Ohio, and was proposing to add new conditions to those then in force, Mr. Giles, of Virginia, Chairman of the committee having the business in charge, consulted Mr. Gallatin, the Secretary of the Treasury, as to the measure the committee ought to adopt. Mr. Gallatin wrote him a letter (State Papers, Miscellaneous, Vol. I), the substance of which was as follows:

[1] It was claimed by the "free soilers" during the discussion of the Missouri question and often afterwards, that this unauthorized Ordinance was a precedent justifying the pretension that the Congress possessed the power to restrict slavery to the original slave States.

[2] See Note L.

The Northwest Territory having taxed lands of non-residents higher than those of residents, thereby discouraging intended purchasers and diminishing sales, it was advisable to secure a relinquishment of the right to discriminate, since "all legislative powers which of right pertain to an independent State must be exercised at the discretion of the Legislature of the new State, unless limited either by the Articles (old compact) or by the Constitution of the United States. Indeed," he continued, "the United States have no greater right to annex new limitations than the individual State may have to infringe those of the original compact."

"By common consent" also, security "should be obtained" against sale of land by the State for taxes before the purchase-money had been paid in and while the United States had a lien on the land. He was of the opinion that "an equivalent" should be offered for the relinquishment of such taxes, which the new State could "accept or reject." He proposed an exemption from State taxes for ten years after full payment for the land, and that on their part the United States should grant as an equivalent:

1. "Section numbered sixteen" in each township for public schools;

2. The Scioto salt springs with the six-miles reservation thereto attached—to be leased or sold by the State for only short periods, so as to prevent a salt monopoly; and

3. One-tenth of the net proceeds of all land sales to be applied to building turnpikes and roads from the Ohio River to the rivers running into the Atlantic.

These grants, he thought, would facilitate sales, and the turnpikes and roads would strengthen the bonds of the Union.[1]

[1] These turnpikes and roads were not to be in the State of Ohio.

The recommendations of Mr. Gallatin were adopted by the committee; and the act passed by the Congress, in compliance with conditions in the deeds of cession, authorizing the people to frame a State government, was the bill reported by the committee, with the addition of "the salt springs near the Muskingum River," with the adjoining reservation, etc., and the substitution of one-twentieth (five per cent) for one-tenth of the net proceeds, etc. This compact was accepted by the Ohio Convention; and it was adopted as the precedent in subsequent enabling acts until the *reasons for the grants were forgotten*, and personal ambition, party spirit, and sectional advantage began to be controlling factors in land legislation.

This point was reached in 1816, when Indiana was admitted. To her, besides grants similar to those made to Ohio, presents were made of two entire townships (46,080 acres) for a seminary, and four sections of land (2,560 acres) for fixing the seat of government.

This was the precedent and the excuse for the policy pursued ever since of donating to all new States organized in the "waste lands" vast areas for high schools, scientific schools, universities, art schools, etc., etc., while the people in the old States have as a general rule supported educational institutions by taxing themselves.

This last statement needs two qualifications which may as well be inserted here:

1. The first is that certain proceeds of the sales of public lands were, by certain acts of Congress, deposited with the twenty-six States (1841), the District of Columbia, and the Territories of Wisconsin, Iowa, and Florida, according to their representative population; and that this money was devoted by the Legislatures of some of the States to the support of free public schools. This was done in North Carolina; but the securities in which

the money was invested were destroyed by the war between the sections.

2. The second is that an act was passed July 2, 1862, donating land scrip to all the States in aid of Agricultural and Mechanical Colleges (a condition based on a still further usurpation), of which North Carolina's allotment was 270,000 acres. This scrip could not be located by the State; it had to be sold; and as nearly all of the money of the country was in the Northern States, the land speculators up there paid fifty cents per acre for the scrip—the highest offer the State could get. But the North forced on us the infamous "reconstruction measures," and this fund went down among the wrecks of that period.

The Indiana act was followed closely in all enabling acts till 1848, when it was enacted that two sections (16th and 36th) in each township should be donated for schools to Oregon and all States subsequently organized or admitted; but there were many acts granting lands for special purposes not embraced in the legitimate sphere of Congressional action. To these the reader's attention is now directed.

Among them (beginning with that of May 26, 1824,) was the act of September 4, 1841, which granted to the new States and the organized Territories 500,000 acres each for internal improvements (canals, roads, railroads, etc.), this amount to include any previous grants for the same purposes; and under the operation of this and the previous acts all these new States and Territories (18 of them) received 500,000 acres each, except five of them, their amounts being as in the following table:

Ohio,	1,243,001	acres
Indiana,	1,609,861	"
Illinois,	533,000	"
Iowa,	1,333,079	"
Wisconsin,	1,183,728	"

In 1850, September 27, an act was passed donating 320 acres to each unmarried person, and 640 acres to each head of a family, who would settle in Oregon and Washington, on their complying with certain conditions. Under it 8,000 claims were registered.

In 1854, July 22, an act was passed donating lands on about the same conditions as those of the preceding act to actual settlers in New Mexico, Kansas, Nebraska, and Utah, but the amount to each was to be 160 acres.

By numerous acts up to August 3, 1854, 3,630,000 acres were granted to Ohio, Indiana, Illinois, Wisconsin, and Michigan, for constructing canals.

By four acts, beginning March 2, 1849, and ending March 12, 1860, there were granted 80,000,000 acres of swamp lands to the public-land States.

By numerous acts, beginning September 20, 1850, and ending February 18, 1859, there were granted to public-land States and Territories 23,495,734 acres for the construction of railroads, of which the largest share went to Illinois for the building of the Illinois Central Railroad.[1]

The value of this "bounty of the Nation" can be appreciated from the following statement on page 392 of the September number, 1890, of the *Political Science Quarterly:* "The State debt of Illinois has been paid off and the State government for years has been supported by a tax on the gross receipts of the Illinois Central Railroad." Indeed, as far back as 1858, it was asserted by respectable authority that the State government of Illinois was supported by a tax (7 per cent) on the gross receipts of this railroad.

In pursuance of this policy of paternalism the organ-

[1] The total amount certified or patented to the State up to June 30, 1896, according to the Land Office Report for that year, was 2,595,053 acres.

ized Territories have been governed from Washington City, and the salaries of all the Territorial officers—legislative, executive, and judicial—have been paid out of the pockets of all the people of all the States.[1] The total amount of the people's money thus given away may be approximately estimated from the appropriations for Arizona and New Mexico for the fiscal year ending June 30, 1895. For New Mexico the amount was $47,400, and for Arizona it was $41,650. And this, although the population of New Mexico is larger than that of the State of Montana, and Arizona's is larger than that of the State of Utah.[2] If we assume $40,000 as the cost of government in each of the Territories which have become States of the Union, the total amount paid out of the people's pocket for this purpose up to 1880 was about $16,000,000, which added to the expenditure already accounted for swells the cost of the public lands and their management to $344,249,489, not including the expenses of government in Indian Territory and Oklahoma.[3]

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[1] See Note M.

[2] Persons who were born in the Territories, and foreigners who settled in them, enjoying the benefits of largesses of land and money, came to regard the Federal Government as the fountain of many of their blessings. Whatever its usurpations might be, therefore, they stood manfully by it, and supported it in its march toward imperialism.

In later years its powers have become in their estimation almost boundless. For example, in a pastoral letter to Catholics, May 12, 1898, Archbishop Gross, of Portland, Oregon, said:

"It has been objected that if Spain has its demoralizing bull fights, America has its prize fights. Yes; but it did not require a decree of the Pope to prohibit them. Our noble Government has prohibited the prize fights, and has done all in its power, and successfully, too, to stop this barbarous sport." The author of that paragraph can, perhaps, see no difference between our "National" Government and the Government of Spain or Russia.

[3] Estimated from data in General Land Office Report, 1896, pages 197–98.

Thus far we have considered the unauthorized grants of public lands up to 1861; and we have found the record sufficiently discreditable to the statesmanship of the ante-bellum period. But since 1861 there has been something of a revelry in extravagance and an ostentatious display of contempt for the rights of the people and for the obligations which are supposed to bind public servants. Take, for example, the act of April 19, 1864, authorizing the people of Nebraska to form a State Constitution. It grants (1) two sections of land in each township for public schools, and, when such sections have been sold or otherwise disposed of, other land equivalent thereto; (2) twenty entire sections for the erection of public buildings at the Capital; (3) fifty entire sections for a penitentiary; (4) seventy-two entire sections for a State University; (5) all salt springs within the State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each; and (6) five per centum of the net proceeds of the sales of all public lands in the State which had been or should be sold. This was a donation, according to statistics in the General Land Office Report for 1896, of 2,839,004 acres of land and about $3,400,000 in money, or 98 acres and $117 apiece for every human being in the Territory in 1860.

By several acts, beginning with March 3, 1865, 700,000 acres were donated for canal purposes in Ohio, Illinois, Indiana, Michigan, and Wisconsin.[1]

By several acts, beginning with July 5, 1862, there have been granted to public-land States 14,823,457 acres for the construction of railroads.[2]

By several acts, beginning with March 3, 1863, there

[1] Ibid.

[2] Ibid.

have been granted 3,910,144 acres for wagon roads in Wisconsin, Michigan and Oregon.[1]

Between March 4, 1861, and June 30, 1871, according to the General Land Office Report for 1871, there were donated for railroads and wagon roads a total of 197,711,406 acres.

By the act of August 18, 1894, provision is made for granting 1,000,000 acres of arid land to each of the arid-land States on condition that each grantee shall "cause to be irrigated, reclaimed," etc., so much land within its borders; and sites for reservoirs, right of way for canals and ditches (all to be surveyed, selected, and supervised by Federal officers at the expense of the people) are to be granted. And possibly, after all the public lands have been disposed of, irrigation will remain a perpetual object of "National solicitude," as is foreshadowed in the act of August 30, 1890, which directs that "in all patents for lands hereafter taken up, etc., it shall be expressed that there is reserved from the lands in said patent described, a right of way thereon for ditches or canals constructed *by the authority* of the United States." And this possibility becomes a probability when we grasp the full significance of the following recommendation of the Commissioner of the General Land Office in his report for 1896: "I again call your attention to the necessity which must arise in the near future, for the creation of a National Commission whose functions shall be to regulate the distribution of those waters which have their source in a superjacent State, and which have heretofore been used in common by the people of that and the subjacent States," etc.[2]

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[1] Ibid.

[2] At a meeting of a body of gentlemen in Washington on December 15, 1897, calling themselves "The National Board of Trade," "the question of artificial irrigation was next discussed, the basis

Among the grants, already partly included in amounts mentioned, was a donation of 140,645,166 acres to the Pacific Railroads, besides a loan of $64,000,000 secured by second mortgages on the roads.

Several grants of smaller amounts, but large aggregates, have been made for town sites in new States, the number of such towns as far back as 1869 being 13,000, with populations ranging from 500 to 5,000;[1] for universities and high schools, normal schools, charitable institutions, county and State public buildings, reform schools, schools of mines, scientific schools, penitentiaries, rivers, roads, canals, etc., etc.

But even all these grants, together with others equally violative of the Constitution and the pledge made to the States and to the original grantors or purchasers, were pardonable in comparison with those provided for in the act of May 20, 1862. That donated a homestead free of cost, except a fee amounting to about eleven cents per acre, to any citizen who is the head of a family, or who has arrived at the age of twenty-one years, and to any *foreigner* who has filed a declaration to become a citizen, provided that he proves his "loyalty."[2] That

being a resolution offered by the Pittsburg Chamber of Commerce, which recommended that Congress enact laws to place the supervision of all irrigation enterprises in the hands of the United States authorities where such work is undertaken upon waterways affecting interstate navigation. * * * The resolution was adopted and a committee appointed to have charge of the matter and report at the next meeting."—Press Dispatch.

[1] See General Land Office Report, 1869.

[2] This proviso has never been stricken out of the law. The only amendment bearing on the qualifications of the beneficiary, so far as the Southern people are concerned, is in the Act of 1866, to this effect:

"No distinction or discrimination shall be made in the construction or execution of this act on account of race or color."

Error.

is to say, the people of the Southern States who, or whose ancestors, ceded or partly paid for these lands, were excluded from this "bounty of the Nation," even the dregs of foreign countries[1] being preferred to them.[2]

The total number of homesteaders up to June 30, 1896, (according to the General Land Office Report for that year, p. 91) was 508,936, and the total number of acres patented to them was 67,618,451, the figures for that year being 36,548 original entries and 4,830,915 acres. This was an average annual gratuity of nearly 1,800,000 acres for the whole period after the passage of the act, and of nearly three times as much during the last year.

The drain of wealth from the Southern States—particularly those of the original thirteen—by the unwarranted diversion of the public lands from being a source of revenue to the common treasury of the States, to the enrichment of States, corporations, and individuals in other sections, has resulted in a marked comparative deficiency of the appliances and conveniencies of civilization in the original Southern States and to a considerable extent in all of them.

The untold wealth relinquished by Virginia, North Carolina, and Georgia, for the common expenses of the

[1] At the time of the passage of this act there was no restriction on immigration. Indeed, it was reserved to a more enlightened age to discover that immigration is "commerce," and, therefore, subject to Congressional control!

[2] A bill was passed in the Federal Senate on May 4, 1897, to donate homesteads to settlers upon "the public lands acquired prior to the passage of this act by treaty or agreement from the various Indian tribes or upon military reservations which have been opened to settlers," etc. And among the yeas are the names of ten Senators from Southern States, viz: Two from Alabama, one from Florida, one from Georgia, one from Louisiana, one from Maryland, two from North Carolina, one from South Carolina, and one from Virginia.—Daily Record, Fifty-fifth Congress, First Session, page 1,177.

States, has been given away to others, every promise made to the States has been repudiated, including the one which induced Maryland to unite her fortunes with those of the other States in 1781.[1]

But the whole story has not been told. Beginning with the first sale in 1787, and ending with the year 1880,[2] we find that the net receipts into the treasury from the sales of public lands (including those which cost nothing) were $200,702,849. Subtract this sum from the $344,249,489, and we have $143,546,640 as the amount the people have paid through incompetent or dishonest servants, for which they have received absolutely nothing in return. Here is a triple crime: (1) A century of violations of the Constitution of the Union; (2) a century of violations of the expressed or implied conditions on which the disposal of the public lands was conferred on the Congress; and (3) a robbing of the people of an amount equal to about $2.00 per capita of the present population to pay the expenses incurred in squandering an empire.

To the patriotic Southern man, however, while righteously indignant at this century of spoliation of his inheritance and misappropriation of the fruits of his toil, the purpose of his despoilers has been even more exasperating. This purpose has been honestly, if not arrogantly, avowed in the halls of the Congress. In a speech delivered in the Senate September 25, 1888,[3] by Senator Plumb, of Kansas, the following passage occurs:

[1] In Mr. Webster's speech in the Senate, March 7, 1850, speaking of Virginia's cession, he said: "There have been received into the Treasury of the United States eighty millions of dollars, the proceeds of the sales of the public lands ceded by her. If the residue should be sold at the same rate, the whole aggregate will exceed two hundred millions of dollars."

[2] Public Land Commission Report, 1883, page 17.

[3] Congressional Record, Fiftieth Congress, First Session, page 9,764.

"It is therefore but natural that when the Democratic Party succeeded to power in 1885, after twenty-four years of enforced retirement, it should at once attack the Republican administration of the public lands. It was to be expected that its leaders should seek to break down the system which had in the previous quarter century so signally multiplied, developed and strengthened the North."[1]

And, dear reader, the disgraceful work is not yet ended. According to the report of the General Land Office for 1896, pages 194-8, the total number of acres disposed of up to that time was 845,854,117, and the acres yet remaining to be given away or sold were 600,040,671. By the old rule of three, therefore, (omitting all the squandering after 1880, of which the statistics have not been examined), we find that the people must pay more than $102,000,000, and, if we include Alaska, their burden will be more than $166,000,000, as the cost of squandering the remaining acres.

But this calculation does not present the matter in its most alarming aspect; something like geometrical progression should have been employed; the party which has "so signally multiplied, developed, and strengthened the North," gave away for railroads and wagon roads, alone, during its first fourteen years of control, 6⅓ times as much land as had been given for such purposes during all the preceding seventy-seven years of Congressional management; and the average annual receipts into the Federal treasury (about $854,000) from 1861 to 1880 were only a little over one-fourth of what they were ($3,115,000) from 1804 to 1861.

[1] Nevada, with a population of only 6,850 in 1860 (Census Reports) was erected into a State on October 31, 1864, the enabling act having been passed on the 21st of the preceding March. By this shameful proceeding the party in power gained three electors for Lincoln and Johnson, and "the North" gained two Senators.

The people may, therefore, expect to shoulder a much heavier burden than $166,000,000. The costs of the litigation with the Pacific Railroads must also be paid, as well as the losses due to the acceptance of inferior security from those roads for the $64,000,000 loaned to them. To these sums also must be added the cost of the Court of Private Land Claims, for which $51,536 were appropriated in 1892, the expenses of the Commissioner of (Pacific) Railroads, for whom $14,420 were appropriated in 1892, and the costs of the Geological Survey (the director of which was created by the act of March 3, 1879) for which the annual appropriation is more than $400,000, being $484,640 for the fiscal year ending June 30, 1894.

NOTE I.

We naturally shrink from uncovering the "nakedness" of our fathers; but the truth sometimes obliges us to do it.

There being but one political party in 1824, the choice for President was a choice of persons; and the field was full of candidates. "The names of many gentlemen," says the Statesman's Manual, "were mentioned as candidates, but the number gradually diminished until the contest seemed to be confined to William H. Crawford, John Quincy Adams, Henry Clay, John C. Calhoun, and Gen. Andrew Jackson."

Each one of these sought to commend himself to the people by an imposing proof of his patriotism. The "American system" of securing the "home market" to manufacturers in the United States was adopted that year; and the first "internal improvement" bill became a law, appropriating $30,000 for surveys of roads and canals. This measure, as Mr. Benton is unkind enough to assert in his Thirty Years' View, was supported by all the candidates because each one hoped to be carried into the White House on such a wave of popularity as that which conveyed DeWitt Clinton to a high seat among heroes when the Erie Canal was completed.

NOTE K.

Discreditable as it may seem, party advantage has had much to do with the management of the public lands; and the "bounty of the Nation" has not unfrequently been lavished on a Territory emerging into Statehood to influence the political complexion of its

first Legislature, and the party affiliations of its first two Senators. Nor does it appear that any political party has been guiltless of extravagance for such a purpose.

In 1841 those who for the first time had come into control of Federal legislation, granted to the new States 500,000 acres, each, of the public lands for internal improvements; but worse than this, they directed the Secretary of the Treasury to deposit with the States certain proceeds of the sales of public lands, and *in the same session* they directed that official to borrow $12,000,000 to supply deficiencies alleged to have been created by their political opponents during the preceding Administration. This same Congress doubled the per centum (making it 10) of the proceeds of the sales of public lands in their borders to Ohio, Indiana, Illinois, Alabama, Missouri, Mississippi, Louisiana, Arkansas and Michigan, after Decemler 31, 1841.

In August, 1848, the party in power, trembling at the spectre of a Waterloo in the Presidential election of that year, gave evidence of its solicitude for the advancement of the people in the higher walks of intelligent citizenship by doubling the gift of school lands in the new States.

In 1850 the party which had come into power under the wing of General Taylor, strengthened its support in certain quarters by donating 3,830,093 acres of land for the construction of the Illinois Central and the Mobile and Ohio River Railroads.

But all this was moderation when compared to what was done in 1864. The possibility of disaster to the rulers in the election of that year led them to make grants to Nebraska amounting, in all, to 98 acres of land and $117 in money to every human being in the Territory, as shown by the census of 1860; and these same rulers gained two new Senators a short time afterwards by erecting that Territory, with a population of 28,841, into a State!

NOTE L.

One of the "conditions" in the Ordinance for the government of the Northwest Territory was the anti-slavery article; and since there has been much discussion as to who was entitled to credit for that article, it may be acceptable to present here the history of it, as it is given by Hinsdale and other writers.

After Virginia determined to cede her claims to the territory north of the Ohio, a plan for forming a new State in that territory was in contemplation; and on June 16, 1783, two hundred and eighty-five officers of the Continental line of the army (155 from Massachusetts, 34 from New Hampshire, 46 from Connecticut, 36 from New Jersey, 13 from Maryland, and 1 from New York) petitioned Congress to assign and mark out the boundaries by Lake Erie on the north, etc., etc. One object was to exchange $1,000,000 of "Continental"

money for land; and another was to have bounty lands assigned to the petitioners.

Afterwards, Virginia's cession having been perfected, an "Ohio Company of Associates" was organized at the "Bunch of Grapes," in Boston, March 3, 1786, which next year, while Congress was considering a reported Ordinance for the government of the Northwest Territory, sent Gen. S. H. Parsons, of Middletown, Conn., to engineer their scheme through the Congress. From May 11 to July 4 there was no quorum, many of the members, including nearly all the ablest, being in the Convention in Philadelphia; and hence nothing was done. General Parsons having gone home, Dr. Manasseh Cutler, of Ipswich, Mass., took his place as agent.

On July 9 a new committee was appointed, and reported an Ordinance on the 11th with no reference to slavery. This committee was composed of Carrington and Lee, of Virginia; Dane, of Massachusetts; Kean, of South Carolina; and Smith, of New York, only *eight* States being present—Massachusetts, New York, New Jersey, Delaware, Virginia, North Carolina, South Carolina, and Georgia—and eleven of the eighteen delegates being Southern men.

The proposition of the Ohio Company was that they would purchase a large body of land, provided a new article excluding slavery were added to the Ordinance already virtually agreed to; and this was done by the vote of every delegate present except Yates, of New York. And this "immortal" work was done by *eight* States, although the pledge made to the land States, October 10, 1780, declared that the lands should be granted or settled "at such times and under such regulations as shall hereafter be agreed on by the United States in Congress assembled, or *nine* or more of them."

The Ordinance, therefore, was passed without authority; nor was there any "humanity" in it. It was solely a business transaction. The Congress needed money; the trading and speculating classes of the Northeastern States had it. The Ohio Company took 1,500,000 acres, and the Scioto Company, under the leadership of Col. William Duer, of northern New York, purchased 3,500,000 acres. "The total price agreed upon was $3,500,000; but as the payments were made in public securities worth only 12½ cents on a dollar, the real price was only eight or nine cents per acre."[1]

As to the "humanity" involved in the bargain, the reader can form his own opinion. Dr. Cutler, Gen. Rufus Putnam, General Parsons, and others led an expedition of New Englanders to the Territory in 1788, laid out and settled Marietta, and they, with the

[1] This was equivalent to a gratuity of $3,062,500 to these Northern gentlemen, an amount equal to about one dollar from every human being in the United States at that time.

other Northern people who went and settled the lands of the Scioto Company, shaped that public sentiment which forbade the immigration of free negroes, and, in the State Constitution of 1802, denied the ballot to free persons of color!

And yet the columns of magazines and newspapers up North have groaned for years under the weight of articles written to prove that all the glory emanating from that "immortal" act belongs to Nathan Dane, of Massachusetts, forgetting that Dane's Article provided, also, for the return of fugitive slaves.

The "bargain" in this Ordinance brings to mind another "humanitarian," who went out to Kansas with "the Bible and Sharpe's rifles." It was Eli Thayer, of Massachusetts, who "organized the Emigrant Aid Company in 1853-'54 to settle the new State of Kansas with anti slavery colonists." In his *Kansas Crusade*, page 58, he exhibits the "bargain" instinct as follows:

"My original plan was, as we have seen, to form a business company, to be conducted on business principles, able to make good dividends to its stockholders annually, and, at its close, a full return of all the money originally invested."

NOTE M.

The Territories have been governed so long by the Federal Government, and at the expense of the people of all the States, that the supposition is almost unavoidable that such paternalism is warranted by the Constitution, or, that, at any rate, it could be justified by that necessity which is ever the tyrant's excuse for his usurpations.

But there is not "the least color of Constitutional authority," unless we regard the settlers in the Territory as property, since it is "property" which the Congress is empowered "to dispose of and make all needful rules and regulations respecting." Nor does the claim of necessity rest on any better support. The people of Vermont took care of themselves, at their own expense, during all their Territorial existence (from 1776 to 1791); and the people of California —the most heterogeneous and turbulent mass of human beings to be found anywhere in the world—governed themselves at their own expense during their Territorial existence (1848 to 1850). And there is no imaginable reason why the people of Kansas or Colorado could not have done likewise.

CHAPTER XII.

THE WAR OF 1812, THE CONDUCT OF NEW ENGLAND, AND THE WAR DEBT.

The unjust and unconstitutional congestion of the money of the country in the "regions north of the Potomac," by Federal legislation, gave to those who had been the chief beneficiaries an undue control over the administration of the government, which they have never relinquished.

The first opportunity they had to show their power in an effective way was when the war broke out in 1812.

The discontent produced in New England by the embargo and the non-intercourse acts then began to be more demonstrative, and the opposition to Mr. Madison and his advisers strengthened and grew in violence. They threw all the obstructions they could in his way; they demanded out of the Federal treasury the last cent due on their Federal securities; they gathered into their banks, in specie, every cent due them from the banks of the Central, Southern, and Western States, and then refused to loan their money to the Administration.—Carey.

The reader, familiar with the progress of Federal legislation up to 1812, can realize Mr. Madison's embarrassment unless he could secure loans of this money. There was no power in Congress to "emit bills of credit"—the clause in the final draft of the Constitution granting this power was deliberately stricken out by the Convention. Hence loans of some sort were absolutely necessary to a successful prosecution of the war.

This want of power was deplored by Mr. Jefferson, who, in a letter to Mr. Eppes, Chairman of the Ways and Means Committee, written in June, 1813, said: "The

States should be applied to to transfer the right of issuing circulating paper to Congress exclusively, in perpetuum, if possible, but during the war at least."[1]

On March 14, 1812, before war was declared, Congress authorized the Secretary of the Treasury to borrow $11,000,000. By September 1st he had secured only $5,847,212, of which he paid $5,436,478 on the public debt, about one-half of it interest, and the other half principal.

On December 1, 1812, after the war had been going on about six months, the Secretary reported that all he had obtained or secured during the whole year—including that mentioned in the preceding paragraph—was $13,100,200, a part of it in exchange for 5 per cent Treasury notes.[2]

On February 8, 1813, Congress authorized a loan of $16,000,000; and four days afterwards the Secretary opened the subscription, but with little success.

On March 25th he again opened the subscription, offering not only 6 per cent per annum, but an annuity of 1 per cent per annum for 13 years. But this proposition brought him only $3,956,400; and in his desperation he invited proposals in writing. Thereupon offers amounting to about $17,000,000 were received, some demanding an annuity of 1½ per cent in addition to 6 per cent at par, but most of them requiring a 6 per cent stock at the rate of 88 per cent. On these terms, leaving to subscribers the option, the loan was effected.

"In conformity with public notification the same terms were extended to those persons who had subscribed on the first opening of the subscription (February 12), and they have the same option; which if the stock, at the

[1] It was transferred in 1862 without applying to the States.

[2] These were United States bonds of small denominations.

rate of 88 per cent be taken, is equivalent precisely to a premium of $13.63 11-100 for each $100 loaned to the Government."[1]

On these terms the $16,000,000 loan was effected, yielding to the Treasury $13,819,024.

As interesting souvenirs of those times, two of the proposals are appended. The first is as follows:

"SIR:—I will take $2,056,000 worth of loan authorized by Congress, receiving 6 per cent stock at the rate of $88, money, for $100 of 6 per cent stock, payable in New York by installments as proposed by you, or as otherwise may be agreed on. I am to receive ¼ per cent for procuring subscriptions, etc.

"JOHN JACOB ASTOR.

"Philadelphia, April 5, 1813.

"Hon. ALBERT GALLATIN,
"Secretary of the Treasury."

The second is as follows:

"We offer to take as much stock as we can ($8,000,000), bearing interest at 6 per cent, payable quarter-annually, the stock not to be redeemed before December 31, 1825, at the rate of $88 for a certificate of $100, provided you will agree to allow us the option of accepting the same terms that may be granted to persons lending money to the United States by virtue of any law for the service of the year 1813, that Congress may pass before the last day of the present year. Also that ¼ of 1 per cent be allowed us on the amount to which the present proposals will be accepted.

"DAVID PARISH,
"STEPHEN GIRARD.

"Philadelphia, April 5, 1813."

[1] American State Papers, Finance, Volume II, page 622.

On page 661 of the volume is a list of subscribers, 1813, who took $7,000,000 of stock, which is interesting enough to be appended here.

Jonathan Smith, Philadelphia,	$2,152,000
Jacob Barker, New York,	1,435,000
O. Campbell, Philadelphia,	468,000
Fitz-Greene Halleck, N. Y.,	288,000
Thomas W. Bacot, Charleston, S. C.,	221,000
Wiliam Cochran, Boston, Mass.,	151,000
George T. Dunbar, Baltimore,	147,000
G. B. Vroom, New York,	144,000
Henry Kuhl, Philadelphia,	144,000
Isaac McKim, Baltimore,	144,000
Whitehead Fish, New York,	118,000
John Duer, Baltimore,	118,000
William Cochran, Baltimore,	110,000
Jacob G. Koch, Philadelphia,	108,000
William Whann, Washington, D. C.,	73,000
James Cox, Baltimore,	72,000
Thomas Cumming, Augusta, Ga.,	72,000

On March 24, 1814, an act was passed authorizing the borrowing of $25,000,000, to be redeemable December 30, 1826, the interest at 6 per cent payable quarterly; and appropriating $8,000,000 annually to pay the interest and ultimately the principal.

In pursuance of this act proposals were invited on the 4th of April, and the offer of $5,000,000 by Jacob Barker, of New York, April 30, was accepted as follows:

"SIR:—Eighty-eight dollars in money for each $100 in stock, and, if more favorable terms are offered any who lend any of the same sum, you may be favored in the same way.

"G. W. CAMPBELL,
"Secretary Treasury."

On the same terms the following persons loaned the sums annexed to their names:

Peleg Talman, Bath, Me.,	$25,000
Levi Cutter, Portland, Me.,	95,000
John Woodman, Portland, Me.,	50,000
Henry Langdon, Portsmouth, N. H.,	40,000
J. W. Treadwell, Salem, Mass.,	416,000
Thomas Perkins, Salem, Mass.,	25,000
William Gray, Boston, Mass.,	197,000
Samuel Dana, Boston, Mass.,	25,000
Jesse Putnam, Boston, Mass.,	67,900
Amos Binney, Boston, Mass.,	35,000
Nathan Waterman, Providence, R. I.,	35,000
James D'Wolf,[1] Bristol, R. I.,	100,000
John Shearman, Newport, R. I.,	35,000
Elisha Tracey, Norwich, Conn.,	30,000
Michael Shepard, Hartford, Conn.,	25,000
Abraham Bishop, New Haven, Conn.,	25,000
John Taylor, Albany, N. Y.,	150,000
Alamon Douglass, Troy, N. Y.,	50,000
Smith & Nichol, New York.,	80,000
Harmon Hendricks, New York,	42,000
G. B. Vroom, New York,	500,000
Samuel Flewelling, New York,	257,000
Jacob Barker, New York,	5,000,000
Whitehead Fish, New York,	250,000
Guy Bryan, Philadelphia,	50,000
Thomas Newman, Philadelphia,	108,000
Samuel Caswell, Philadelphia,	28,000
Paul Beck, Philadelphia,	50,000
William Patterson,[2] Baltimore,	50,000
George T. Dunbar, Baltimore,	191,000
James Cox, Baltimore,	71,000
Dennis Smith, Baltimore,	200,000

[1] James D'Wolf made his fortune by following the slave trade; was elected to the United States Senate in 1821 by the Legislature of Rhode Island; resigned his seat in 1825; removed to Havana; and lived there several years as president of a slave-trading company.

[2] Wiliam Patterson, whose daughter married Jerome Bonaparte, was an Irishman, who, as the owner of a line of ships, had become the wealthiest man in Maryland, except Charles Carroll, of Carrollton.

Samuel Elliot, Washington, D. C.,	100,000
Alexander Carr, Washington, D. C.,	23,000
William Warren, Washington, D. C.,	42,500
Anthony Cazonave, Alexandria, Va.,	30,000
Charles Cochran, Charleston, S. C.,	250,000
David Alexander, Charleston, S. C.,	60,000
John Lukins, Charleston, S. C.,	70,000
Thomas W. Bacot, Charleston, S. C.,	115 000
James Taylor, Newport, Ky.,	25,000
William Whann, Washington, D. C.,	190,000
Robert Jennings, Richmond, Va.,	176,000

On these sums, paid for, says the Statesman's Manual (Vol. I, p. 363), with depreciated State-bank bills (all, except a few banks, it says, in New England, having suspended specie payments), these parties cleared 13.61 per cent at the time of the loan, and a fraction over 6.94 per cent, interest per annum, which had to be paid, in part, by the men who were in the armies enduring all the hardships and exposing themselves to all the dangers incident to war, in defense of the rights, honor and dignity of the United States! And while all but seven of the subscribers lived north of the Potomac, only six lived in Massachusetts, although as the Statesman's Manual says (Vol. I, p. 354), "the war may be said to have been a measure of the *South and West*, to take care of the interest of the North"—New England —"much against the will of the latter."

The entire amount borrowed is said by good authorities to have been about $64,000,000; but the public debt in 1817 was nearly $86,000,000 more than it was in 1811, and, if we add the more than $5,000,000 borrowed and paid out again in 1812, the total war debt was nearer $91,000,000; and since the population was about 8,000,000, the per capita debt was $11.37, nine-tenths of it due "north of the Potomac."

All this embarrassment of the Administration, which ultimately drove Mr. Madison to abandon in the treaty

of peace the very ground on which war was declared—the impressment of seamen—was the work of the commercial class in New England, aided by their sympathizers in other States.[1] "Shortly after the declaration of war," says Carey, "there was a combination formed to prevent the success of the loans authorized by Congress. I believe that all those who entered into this scheme resided in the Eastern States, particularly in Boston, which was the grand focus of the conspiracy."—Page 286. Again he says: "Every possible exertion was made in Boston to deter the citizens from subscribing to the loans. Associations were entered into in the most solemn and public manner to this effect. And those who could not be induced by mild measures were deterred by denunciations. A volume might be filled with the lucubrations that appeared on this subject.

"The pulpit, as usual in Boston, came in aid of the press to secure success. Those who subscribed were in direct terms declared participators in, and accessories to, all the 'murders.' "—Page 289.

One of the "lucubrations" is quoted by Carey from John Lowell's *Road to Ruin*, as follows: "Money is such a drug (the surest sign of former prosperity and present insecurity of trade) that men, against their consciences, their honor, their duty, their professions and promises, are willing to lend it secretly, to support the very measures which are both intended and calculated for their ruin."

[1] On June 27, 1814, while preparations were going on for the holding of the "Hartford Convention," Mr. Monroe, Secretary of State, giving instructions to the Commissioners appointed to negotiate a treaty of peace, said: "On mature consideration, it has been decided, that under all the circumstances above alluded to, incident to a prosecution of the war, you may omit any stipulation on the subject of impressment, if found indispensably necessary to terminate it."

But notwithstanding the ravings of the schemers, a few persons had the courage to defy them. Among these was ex-President John Adams, who, writing to a friend in July, 1812, thus expressed himself: "It is with surprise that I hear it pronounced not only by newspapers, but by persons in authority, ecclesiastical and civil, and political and military, that it is an unjust and unnecessary war. * * * I have thought it both just and necessary for five or six years. * * * I have expected it more than five and twenty years."[1]

It would be inexcusable to class all the people of the commercial States with the traders and speculators; there were many eminent gentlemen who strove to calm the storm raised by the agitators. But in vain; it swept nearly everything before it.

And it would be uncandid not to admit that during the last two years of the war the people of Massachusetts and Connecticut were subjected to many hardships and endured many grievous wrongs because of the failure of the Federal authorities to afford them adequate protection against invasion, sack, and pillage by British forces; but it is equally true that the real responsibility lay at the doors of the agitators, who having done all they could to weaken the Federal arm, were vile enough to mislead the people and direct their discontent aginst Mr. Madison and the Southern people in general.

In the midst of all the provocations, however, the South held out the olive branch in the shape of conciliatory legislation;[2] and by 1820 there was on the surface an "era of good feeling," manifested in the casting of all but one of the electoral votes for Mr. Monroe's re-election to the Presidency. It was only "on the surface"; that very year the contest over the admission of

[1] See Life of John Adams in Conrad's Lives of the Signers of the Declaration of Independence.

[2] See Note N.

Missouri revealed a determination in the North to destroy the power of the South in the Federal councils.

This imperfect picture of political movements preceding, during, and immediately succeeding the War of 1812, though wanting in much of the coloring which really belongs to it, is sufficiently vivid to enable us to discern three things:

1. That the commercial class in New England preferred to pursue their ocean traffic with all the insults and vexations Great Britain saw fit to inflict on them, rather than to allow the President and the Congress to defend the rights and the dignity of the United States against the aggressions of that proud mistress of the seas.

2. That by the operation of Federal laws, supplementing natural and other artificial forces, the wealth of the South had, even up to 1812, been flowing in large streams to the "regions north of the Potomac."

3. And that the channel along which it had flowed was then deepened and widened.

NOTE N.

After excitement sprang up in New England in consequence of non-importation acts, conciliatory measures marked the policy of the Administration and its friends in Congress. Those in that section who had at all distinguished themselves in military or civil life seem to have been preferred over others for posts of honor.

1. William Hull, of Massachusetts, appointed Governor of Michigan Territory by Mr. Jefferson in 1805, was continued in office by Mr. Madison.

2. Dr. William Eustis, of Massachusetts, who, the Statesman's Manual says, "knew but little of military affairs," was appointed Secretary of War in 1809 by Mr. Madison, and Minister to the Netherlands in 1814.

3. Joseph B. Varnum, of Massachusetts, was elected Speaker of the House of Representatives in December, 1807, and again in 1809.

4. Henry Dearborn, of Massachusetts, the predecessor of William Eustis in the office of Secretary of War, served from 1801 to 1809; he was then appointed Collector of the port of Boston, and held the office till 1812, when he was appointed Senior Major-General—Commander-in-Chief—United States Army.

5. Gideon Granger, of Connecticut, was appointed Postmaster-

General in 1801 by Mr. Jefferson, and was continued in office by Mr. Madison.

6. Joel Barlow, of Connecticut, was appointed Minister to France in 1811.

7. John Quincy Adams, of Massachusetts, was appointed Minister to Russia in 1809; declined the office of Associate Justice of the Federal Supreme Court, offered him while he was in Russia; was appointed in 1813 one of the Peace Commissioners; was then appointed Minister to England, etc., etc.

8. Levi Lincoln of Massachusetts, was appointed Associate Justice of the Supreme Court of the United States by Mr. Madison in 1811. He declined the office.

9. Joseph Story of Massachusetts, was appointed Associate Justice of the Supreme Court of the United States in 1811 by Mr. Madison.

10. George W. Erving of Massachusetts, was appointed Minister to Spain in 1814 by Mr. Madison.

11. Elbridge Gerry of Massachusetts, was chosen as Mr. Madison's running mate on the Presidential ticket in 1812, Governor and ex-Senator John Langdon of New Hampshire, having declined the honor.

12. Benjamin W. Crowninshield of Massachusetts, was appointed Secretary of the Navy in 1814. And

13. Jonathan Russell of Massachusetts, was appointed Minister to Sweden in 1814; was on the Peace Commission with J. Q. Adams and others; and was retained as Minister to Sweden by Mr. Monroe.

In addition to thus honoring that section, some special favors were bestowed on certain of its industries:

1. The act of July 29, 1813, granted a drawback on imported salt used in curing fish, while denying it to persons who cured beef and pork, as is explained in another chapter.

2. An "important bill" was passed through the efforts of Mr. Cheves of South Carolina, in the winter of 1812-'13, remitting all fines, penalties and forfeitures imposed on the many violators of the Non-importation Acts.

3. An act was passed in the winter of 1815-'16 allowing a drawback on sugar refined, and on rum made from molasses.

4. An act was passed in the winter of 1816-'17 prohibiting foreign vessels from transporting goods to the United States unless they were produced in the countries to which the vessels belonged.

5. And in the winter of 1817-'18 an act was passed to extend for seven years the act of 1816, which was to expire in 1819, levying a tax of 25 per cent on all woolen and cotton goods imported from a foreign country, in order to enable New England and other manufacturers of similar goods to control the "home market."[1]

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[1] See Statesman's Manual, Vol. I, pages 348-548.

CHAPTER XIII.

HOW THE POWER TO LAY AND COLLECT TAXES HAS BEEN USED TO ENRICH THE NORTHERN STATES AT THE EXPENSE OF THE SOUTH.

The tariff question has been discussed for more than a century, and the masses of the people are apparently as far from an intelligent understanding of it as they were when Hamilton was Secretary of the Treasury; and, worse, still, as Jean-Baptiste Say said in his Political Economy, ninety-five years ago, the victims of "protection" "are the first to abuse the enlightened individuals who are really advocating their interests."

It requires a degree of courage, therefore, to ask the reader to give patient, if not interested, attention while we thrash over old straw; but the object in view constrains us to do it.

When the Federal Government was inaugurated under the Constitution, possessing the power to "lay and collect taxes, duties, imposts, and excises," a few years of experience taught the statesmen of those times the lesson which had been learned in other countries ages before, namely, that indirect taxation was least liable to excite popular discontent.

The different methods of supplying the treasury, with the reasons for and against them, were something like the following:

1. A poll or property tax would require a set of Federal assessors, list-takers, and collectors in every county in the Union, in addition to the State and county officers. The people would object to this; but, worse still, *they would know how much tax they paid.*

2. A part of what every man produced—an excise—could be taken for the use of the treasury; but this

would have been even more objectionable than a poll or property tax. And

3. A tax could be collected at the custom-house on articles imported from foreign countries; and since the importer could reimburse himself when he sold the goods to consumers, he would have no cause for complaint, and the consumers would not see the tax hidden in the price. [1]

By the last of these methods there was scarcely a limit to the burden which could safely be laid on the people; one-half, or more, of their annual expenses for sugar, coffee, tea, salt, manufactures of iron and steel, clothing, hats, shoes, etc., etc., could be taken from them without their realizing the enormity of the tax, or who was responsible for high prices. [2]

Hence this was adopted; and as the consequent high prices of foreign articles encouraged people in the United States to enter upon the manufacture of similar articles, it soon became the favorite method. In the course

[1] "The excise, being a tax which people could see and feel, was very unpopular, and in 1794 the opposition to it in Western Pennsylvania grew into the famous 'Whiskey Insurrection,' against which President Washington thought it prudent to send an army of 16,000 men—as many as he had commanded at Yorktown. * * *

"Nowhere was there any such violent opposition to Hamilton's scheme of custom-house duties on imported goods. * * * The people do not flock to the custom-house and pay the duty, but the importer pays it, and then reimburses himself by adding the amount of the duty to the price of the goods on which he has paid it. In this way vast sums of money can be taken from people's pockets without their realizing it. * * * When a tax is wrapped up in the extra fifty cents paid to a merchant for a yard of foreign cloth, it is so effectually hidden that most people do not know it is there." —Fiske's Civil Government in the United States, page 258.

It may be added that when a similar article made in the United States is bought at the same price, fifty cents of it is the amount paid as a bonus to the manufacturer by the command of Congress, and that this fifty cents is just as "effectually hidden."

[2] See Note O.

of time, as the advantages of this "encouragement" were more and more appreciated, tariff acts came to be looked upon as acts to "protect" domestic manufacturers against those of foreign countries, the raising of revenue being regarded as of secondary consideration. For the first twenty-three years, however, the rates did not go above an average of 17½ per cent; but from about 1807 to 1815 the embargo, the non-intercourse acts, and the war afforded a more powerful "protection" than any tariff act could.[1] The exigencies of war, too, induced Congress to double the rates formerly imposed.

"Manufactures, thus powerfully encouraged," says Vethake's Political Economy, "sprang into existence in the Northern and Middle States, where, for various reasons"—greater accumulation of capital, and, in the absence of steam power, the proximity of their water-power to the seaboard—"the most advantageous situations for them existed." "Now on the return of peace," he says, "and the consequent repeal of the double duties, there was necessarily a reaction." British manufactures, which had accumulated during Britain's wars with the United States and with Napoleon, were brought over and sold to the people at prices much below those they had been paying.

[1] The following table of net imports will show the degree of "protection":

1805,	$67,420,981
1806,	69,126,764
1807,	78,856,442
1808,	43,992,586
1809,	38,602,469
1810,	61,008,705
1811,	37,377,210
1812,	68,534,873
1813,	19,157,155
1814,	12,819,831

—Tariff Compilation, 1884, page 299.

The manufacturers, therefore, clamored for a restoration of war prices through a restoration of the war tariff; but the shipping interests, having recovered their old-time lucrative commerce, opposed an increase of rates; and this opposition was voiced by Daniel Webster as late as 1824, during the discussion of the so-called "American system." But the real or pretended distress of the manufacturers prevented a "repeal of the double duties;" they were reduced about one-third; and the people who had been compelled to pay $1.35 (the war price) for an article worth $1, were still obliged to pay $1.25 for the benefit of the "distressed" manufacturers.

So that New England and Middle State manufacturers (there were few of the latter) were empowered to sell their wares at foreign prices increased by at least one-fourth of those prices together with the freight rates on "protected" ships, to the Southern farmers who received foreign prices for their surplus crops, whether sold at home or abroad; and from that time to the present have competed in the world's markets with the cheapest labor of Europe, Asia, Africa, and South America.

But this was not encouragement enough; and their "distress" induced Congress to pass the act of 1816, which so effectually checked imports that they fell from $129,964,931 in 1816 to $79,891,931 in 1817 and an average of $67,001,957 during the succeeding four years.

In all these early years tariff rates were professedly adjusted so as to encourage certain "infant industries," and they were intended to be temporary.[1] In 1824, however, the "American system" was adopted, designed not only to support the "infants", but to encourage the birth of more "infants"; and when the act of 1828,[2]

[1] See Note P. [2] See Note Q.

still more sweeping in its provisions,[1] revealed a purpose to quarter permanently on the agricultural class the manufacturers of the Northern States, the struggle for sectional control of the Government assumed a threatening aspect, which became more alarming when the agriculturists were defied by the passage of the act of 1832.[2]

About this time the denunciation of Southern people by the abolitionists of the North became violent, and tended to weaken the bonds of the Union; and they, together with the "free-soilers" and the manufacturers, began to devise schemes for the extension of Northern influence into the territory belonging to the United States, with the ultimate purpose of strengthening the North in Federal legislation. And in a few years the contest between the manufacturers of the North and the agriculturists of the South became a strife between the superior enlightenment and humanity of the North, and what Mr. Thomas B. Reed calls the "lower civilization of the South"![3]

The effect of this system of taxation on the welfare of the people of the Southern States up to 1832 can be approximately estimated from statistics of exports and imports.

From statistical tables in the report of the Secretary of the Treasury (pp.322 et seq.) for the year 1858, we learn that the value of the average annual exports of domestic produce for the twelve years ending June 30, 1832, was $54,429,000, of which the South furnished cotton worth $26,130,750, tobacco worth $5,650,000, rice worth $2,019,000, turpentine worth by estimation (pp. 362-4) $2,500,000, breadstuffs and provisions worth

[1] See Note R.

[2] See Note S.

[3] See Congressional Record, Second Session, Fifty-third Congress, page 2,033.

(at least half of the exports) $13,025,000, and forest products worth (half of the exports) $3,000,000, besides many other articles, as fish, furs, skins, tallow, butter, horses, mules, cattle, beeswax, soap, etc., etc.[1] But adopting the figures about which there can be no reasonable doubt, we have 84 per cent as the South's contribution.

Assuming, then, that 84 per cent represented the South's share (which is unfair to the South, since a similar calculation for 1821 gives 91 per cent as her share) from 1789 to 1832, let us ascertain the comparative burden of Federal taxes borne by her during that period. We can make the calculation in two ways:

1. Let us suppose that foreign goods were received in exchange for all these exports, the South consuming foreign goods and the North consuming largely its own manufactures. The average population of the Southern States, including Maryland, Kentucky, and Missouri, for the first five censuses was 3,512,473, and that of the Northern States, including Delaware, was 4,267,075.

Dividing $84,000,000 and $16,000,000 (which are to each other as 84 per cent is to 16 per cent), we have the ratio of per capita tax $23.91 in the South and $3.75 in the North; or, in other words, the Southerner paid nearly *six and one-third* times as much as the Northerner towards the support of the Federal Government.

2. Let us take into the calculation the foreign articles imported up to 1832, and paid for with the profits of the coastwise monopoly, the "protected" foreign commerce, and the slave-trade. From a table on page 305 of the

[1] An act passed by the Legislature of North Carolina in 1784, and amended in 1805 and subsequent years, provided for the appointment at all the towns and landings on the waters of the State of inspectors of the following articles "exposed to sale for export": Beef, pork, rice, tar, pitch, and turpentine, staves and heading, fish, flour, butter, flax-seed, sawed lumber, and shingles.

report of the Secretary of the Treasury for 1857-8, we learn that the exports of domestic articles up to and including 1832 amounted to $1,817,912,615, that the imports of foreign articles amounted to $3,355,482,058, and that the exports of foreign articles amounted to $955,326,630. The net imports, therefore, were $2,400,155,428, or $582,242.813 more than the domestic exports.

Now add this to 16 per cent of the domestic exports and we have $873,108,831 as the North's share, and $1,527,046,596 as the South's share. Suppose again that each section consumed the goods received for its exports, and paid the duties. Dividing as before we find that the South consumed $434.75 to the North's $204.61 *per capita*, and paid taxes in proportion to these amounts. These calculations, however, as is known to everybody at all acquainted with the conditions prevailing in the two sections of the Union, are grossly unfair to the South; the 84 per cent should, perhaps, have been nearer 90, and possibly one-third or more of the extra imports were consumed in the South. The total amount of the taxes collected on these imports was $594,869,613, and for the privilege of consuming them the people had to pay an average of $24.78 on every $100 worth, which would amount to $107.76, per capita, in the South, and $50.70 in the North. But since the highest rates were paid on the goods consumed in the South (from 25 to 50 per cent on woolen goods, from 25 per cent to 5 cents per square yard on cotton goods, 50 per cent on straw hats and Leghorn bonnets, etc.), it might not be an exaggeration to put the Southerner's tax at $130 and the Northerner's at $38. This would show a per annum tax of $2.95 in the South and $0.86 in the North for each human being.

Now let us pause and inquire what was done with this money. According to tables on pages 1,547-50, Vol. 2,

of the Statesman's Manual, of a total of disbursements from the Federal treasury of $842,250,820 up to and including the year ending June 30, 1832—a portion of which was revenue received from other sources—$408,088,199, or nearly one-half, was paid as principal and interest of the public debt, held, as is elsewhere shown, principally in the Northern States; while another unknown amount went to the bounty-fed fishermen of New England and the Revolutionary pensioners of the Northern States.

But the whole story has not been told yet. After the "fostering" of manufactures had strengthened so many "infants" and caused the birth of many more, the Southern market began to be supplied with "protected" merchandise from the North, displacing foreign products to some extent, and this merchandise was sold in the South at about the same price the people had been paying for similar goods from abroad, the extra 24.78 per cent going into the pockets of the manufacturers. Indeed, during the years after 1816, the profit was much larger, being 34.9 per cent in the years 1825-'6.[1]

[1] It is denied by the protectionists that domestic manufacturers charge the foreign price *plus* the tax for similar articles they produce; but such a denial is intended to impose on the ignorant. Up to 1832 the protected manufacturers were not able to supply the "home market"; a great many foreign articles were imported; and the reader may judge for himself whether a bolt of Massachusetts homespun sold for less than a bolt of simlar homespun imported from Europe. If the price of the foreign bolt was $5, including $2 of tax, the domestic bolt sold for $5, $2 of it going as a bonus into the pocket of the manufacturer.

And he who makes this denial must explain the statistics of the census of 1850—three years after Mr. Blaine's "free-trade" tariff was adopted. In 1849 there was $527,209,193 invested in manufacturing and other protected industries, not including those whose products were not worth over five hundred dollars; the raw material (including fuel) consumed was worth $554,655,038; the wages, salaries, etc.,

Truly, therefore, did Senator Benton say in 1828, while discussing the "bill of abominations": "Wealth has fled from the South and settled in the regions north of the Potomac, and this in the midst of the fact that the South in four staples alone, in cotton, tobacco, rice, and indigo (while indigo was one of its staples), has exported produce since the Revolution to the value of $800,000,000, and the North has exported comparatively nothing."

And truly did the South Carolina delegation say in their address to their constituents after the passage of the tariff act of 1832: "That in this manner the burden of supporting the Government was thrown exclusively on the Southern States, and the other States gained more than they lost by the operations of the revenue system."[1]

After these forty-four years of injustice came the compromise tariff of March 3, 1833, which provided for a gradual reduction of the rates down to 20 per cent in 1842. But even under that, when the rates had reached the lowest point,[2] domestic manufacturers were enabled to charge foreign prices increased by ocean freights and tariff rates little less burdensome than before, since the principal reductions were on articles not produced in the United States. For example, the rate was reduced from 25 to 21½ per cent on blankets, brass wire, buttons, car-

amounted to $229,736,377; and the products were valued at $1,013,336,463. This was a gain of more than 43 per cent on the capital invested.—Lippincott's *Gazetteer* (1857), *Article United States.*

He must also account for the heavy gains of the woolen and cotton manufacturers in 1859. According to the census of 1860, the "free-trade tariff" of 1857 being in force, woolen manufacturers realized 48 per cent on the capital invested, and the cotton manufacturers realized more than 34 per cent.—Eleventh Census, Manufacturing Industries, Part III, page 3.

[1] Statesman's Manual, Volume II, page 996.

[2] It was tinkered on twice in the interval.

pets, clocks, copper vessels, cotton goods, cutlery, manufactures of flax, and woolen or worsted hosiery; from 30 to 23 per cent on adzes, axes, bonnets, books (knowledge), bridles and bridle bits, firearms, harness, drawing-knives, hatchets, wool hats, and straw hats; and on ready-made clothing from 50 to 29 per cent. On many articles the rate was raised, becauseof the "distress" of the manufacturers or of the treasury.

Thus we see that the manufacturers were enabled to levy tribute on other classes to the extent of at least one-fifth of the value of their goods and wares, and during these years and afterwards they were gradually increasing the output of their factories and driving foreign goods out of their "home market." So that the Southern farmer who sold $1 worth of cotton, or rice, or tobacco for $1, was compelled by law to pay at least $1.20 for $1 worth of goods made in the Northern States; and perhaps in ninety-nine cases out of every hundred he did not see the 20 cents "wrapped up" in the price.

After the close of the compromise period, the protectionists having promised that the low rates reached should remain permanent, they were encouraged by intervening events to violate their promise and restore in 1842 all the old high rates (in some instances increasing them), and to add over 260 articles to the dutiable list at very high rates. For example, on cotton bagging they levied 4 cents per square yard, on cotton cloth 30 per cent, on flannels (other than cotton) 14 cents per square yard, on salt 8 cents per bushel, on leather shoes 30 cents a pair, and on woolen goods 40 per cent; and they provided for the birth of more "infants" by removing from the free list axle-trees at 4 cents per pound, bagging for grain at 5 cents per square yard, women's double-soled pumps at 40 cents per pair, leather bootees for women and children at 50 cents per pair, cut-glass

candle-sticks at 45 cents per pound, trace chains at 4 cents per pound, and bluestone (for soaking seed wheat) at 4 cents per pound, etc., etc.

But even this act, drastic as it was, fell far below the hopes and purposes of the protectionists; it was the third tariff bill passed at the same session, President Tyler having vetoed the other two.

Luckily for the country, however, the agitation of the tariff question was bearing fruit; the schoolmaster was abroad in the land, and the people were beginning to analyze prices and find what was " wrapped up " in them. And in 1844 they turned down the protectionists, and prepared the way for the reductions in the acts of 1846[1] and 1857.

Under the operation of these "free-trade" tariffs, as Mr. Blaine called them, there was more general prosperity and contentment than the people had ever enjoyed before, as is admitted by Mr. Blaine in his *Twenty Years of Congress*, though he gives much of the credit to other causes. But all this prosperity, so far as it came to the agricultural class, can fairly be compared to the relief experienced by a traveler who, having been compelled to carry on his shoulders two heavy rails, is permitted to throw down one of them. The manufacturer could still "wrap up" 24 cents in every $1.24 worth of firearms; hand-made clothing for men, women and children; willow baskets; straw, chip, and grass bonnets; brass manufactures; plain chinaware; clocks; combs for the hair; suspenders; stockings; calico and bleached homespun; cutlery of all kinds; earthenware of all kinds; straw hats; hoop iron; castings, vessels, etc.; leather shoes; manufactures of steel; iron bars, bolts, and rods, etc. He could "wrap up" 19 cents in

[1] This passed the Senate by the casting vote of Vice-President Dallas.

every $1.19 worth of cotton bagging; buttons; thread; calomel; flannels; and woolen or worsted yarns. He could "wrap up" 15 cents in every $1.15 worth of copper bolts, nails, spikes, etc.; linen goods; window glass; grain bags; gunpowder; wool hats; laces; shot; steel; and blankets. In short, fully one-sixth of the wholesale prices of all his goods and wares was unearned profit, paid to him by the command of the Government of the Union.[1]

The resulting damage inflicted by this system on the agricultural class can be inferred from statistics furnished by the Treasury Department. According to tables on pages 315-6 of the report for 1857-'8, on page 73 of the Statistical Abstract for 1894, and on page 88 of the Agricultural Report for 1873, the exports of domestic produce for the forty-five years, beginning with 1826 and ending with 1860, amounted to $4,598,567,742, of which the agriculturists furnished $4,219,204,883, or nearly ninety-two per cent, the share of other producers being 8.24 per cent. These agricultural products were sold at "pauper labor" prices in foreign countries, and all the surplus not exported sold in the United States at "pauper labor" prices diminished by the cost of transportation to foreign countries. And during all these years the manufacturers were extending their operations so as to supply the demands of the "home market," at prices ranging from 20 to 50 per cent above "pauper labor" prices. The average was 23.5 per cent, and the agriculturists contributed to the treasury dur-

[1] When, after the wars with Napoleon, the British Parliament levied such a tax on foreign corn as to compel the people to pay about six cents for a 3-cent loaf of bread, the London blacksmith who complained at that form of robbery, was told that his complaint was unfounded, because he was not obliged to buy bread; and that it was his own fault if he allowed himself to be robbed for the benefit of the British landlord.

ing this period $992,000,000, and perhaps nearly as much to Northern manufacturers,[1] while the people in the manufacturing sections, consuming the products of their own factories, were relieved from all taxes except those collected on such articles as were not produced in the United States, which, if not placed on the free list, were usually taxed at a low rate.

This was the direct damage. Another wrong inflicted on the agricultural class was perhaps more completely hidden from view than the enhancement of prices, but it was none the less shameful. It was the swindling of the people by imposing on them with what we now call shoddy goods—woolen cloth composed of from 50 to 70 per cent of cotton and old woolen rags, white lead containing from five to twenty per cent of barytes, tin plate covered with a mixture composed largely of lead, etc., etc. In an unrestricted market frauds like these could never escape detection and condemnation.

Such was the "fire" the Southern people fell into when they jumped out of the British "frying pan" in 1776.

It would be unfair to the protectionists to deny that there was ever any plausible excuse for their system.

To a tariff tax *per se*, there can be no objection. In the early days when everybody consumed imported goods, such a tax honestly and Constitutionally expended, worked no injustice to any class or section. It was after the tariff began to be adjusted for other and

[1] This was taking from the farmer $23.50 out of every $100 of his produce exported to foreign countries, while the manufacturer in the United States was enabled by the taxing system to take as much out of every $100 worth of farm products sold in the United States. Add to this the burden laid on his shoulders by the protected shippers, and the sum left him out of each $100 he had made was not much over seventy dollars.

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unauthorized purposes that excuses were felt to be necessary.

1. One excuse is that if foreign goods were permitted to come in free of tax, British manufacturers would flood our markets with "pauper-made" products, drive out the "home" manufacturer and then advance prices to suit themselves. This was invented to impose on the ignorant who do not know that a hat or a yard of cloth can be made as cheaply in the United States as in England, that French, German, Belgian, Dutch, and other European manufacturers would contend with Great Britain for our trade, and that ocean freights impose a considerable restriction on the foreigner.

2. Another excuse is that by protection, *and not without it*, the manufacturers would furnish the farmers with a "home market" for the products of their farms.

This might have had some force in it; but the free homesteads and other inducements to build up the West so as to "multiply, develop, and strengthen the North," have had the effect of supplying the Eastern manufacturers with cheap farm products, of destroying the "home market" for Southern corn, wheat, beef, and pork, and of driving many of the Eastern farmers who had been dupes of this "home market" argument into other occupations or into the West.

3. The competition among manufacturers which protection alone, it was alleged, could bring about, would cause an ultimate reduction of prices to that general level which determines the profits of the producers of cotton, breadstuffs, provisions, wool, and other raw materials. This, too, was invented to impose on the ignorant. More than a century of this competition has failed to reduce prices to the promised level, as is evident from the refusal of our manufacturers to compete in the markets of the world. Instead of this they "shut

down" when the "home market" appears to be glutted, and begin to devise schemes to have the Constitution amended so that they can regulate the hours of labor in competing establishments in the Southern States.

And it is the height of folly to suppose that the States conferred upon Congress the power to fleece about five generations of agriculturists in order that succeeding generations might buy cheap goods.

4. Another excuse was fairly set forth in a speech in the Senate August 1, 1892, by Senator Hawley of Connecticut. The substance of it was that without protection it would be impossible to pay "American wages," and that the opponents of protection were manifesting a cruel disregard of "the mourning of labor."[1] This "labor" means that employed in factories, and excludes the white or black man who works in the cotton fields of the South for 60 cents per day; and Senator Hawley insists that these people shall be compelled by act of Congress to contribute a portion of their 60 cents to swell the wages of the factory employee to $2.50 per day.[2]

5. Another excuse for protection is that "the foreigner pays the tax," and that if Congress were to remove, say, the eleven cents now imposed on every pound of the cheapest wool imported, it would be equivalent to donating this tax to the foreign wool grower. This

[1] The pretense that laboring men are the chief beneficiaries of protection is brought into discredit by the statement made by a Massachusetts "woolen workingman" to the Senate Finance Committee in 1894. The factory in which he worked produced daily $1,425 worth of woolen goods, while the wages paid per day was $172.50, or 12 per cent of the value of the goods.—Senate Reports, Second Session, Fifty-third Congress, Volume XIII, page 87.

[2] Senate Report, 986, Part III, First Session, Fifty-second Congress, pages 1,902–2,038.

excuse for protection was advanced in the Senate of the United States no longer ago than January 18, 1898, by Senator Pettigrew, of South Dakota, who interrupted Senator Morgan's Hawaiian annexation speech with this sage question: "Does the Senator from Alabama mean to say that the Hawaiian Government would voluntarily seek the protection of some other power, and thus forego the great advantage those islands now enjoy in their reciprocity arrangements with the United States which results in our remitting to them annually not less than $6,000,000?"[1]

6. Another excuse is that there is a lack of patriotism in the Southern man who buys foreign goods in preference to "home-made" goods from New England; and that therefore a tax laid on him is a righteous penalty.

Which being interpreted means, as Dr. Johnson said, that "patriotism is the last refuge of a scoundrel."

7. Another excuse for protection—not the protection we have been laboring under for over thirty years, but the Dingley tariff—was given to the country on June 15, 1898 (about three months before cotton fell to 4½ cents per pound on North Carolina farms), by Senator Pritchard of North Carolina. It is that the Dingley tariff has produced a prodigious balance of trade in favor of the United States by shortening the wheat crop of foreign countries and causing an extraordinary demand abroad for the wheat of the farmers of the Western States. "As a result," he said, "of the happy concurrence of conditions"—"the administration of the government by the great party of Lincoln, Grant, and McKinley"—"the volume of cash sent over to us from Europe breaks all previous records." It has also advanced the prices of farm products "from 15 to 40 per cent."

[1] Press Dispatch.

"Horses are 75 per cent higher than in 1897, and few to be had; poultry 150 per cent above last year * * * tobacco is higher than in four years."[1]

8. Another excuse is that under "protection," and not without it, everything the people of these States need will be produced "at home." This is addressed to that narrow selfishness which in some quarters is mistaken for "patriotism"; and it presumes dense ignorance in the persons addressed. It utterly ignores the universal disposition to refuse to buy from a man who refuses to buy from others; and it sends the farmer out into an unwilling world in search of markets for his cotton, wheat, tobacco, etc., and brings him back "home" to spend his reduced income in a "protected" market.

9. And last, but not least, was the justification of ante-bellum protection which appears in a speech of Hon. J. H. Walker of Massachusetts, commented on in the 16th chapter (Slavery) of this volume. It is that since the slave-holder paid no "wages," he was under some sort of moral obligation to divide his profits with the Northern manufacturers who were obliged to pay wages.

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[1] Press Dispatch.

NOTE O.

That there may be no suspicion of exaggeration in the statement made in the chapter on the tariff, the following table has been constructed from data in Senate Report No. 407, Second Session, Fifty-third Congress. It shows the value of goods imported during the year ending June 30, 1893, and the tax paid at the custom-houses, and from it these selections have been made:

Articles.	Foreign Price.	Tax.
Alum,	$73,806.17	$27,437.52
Morphine,	25,035.00	11,790.00
Castor oil,	228.00	228.80
Linseed oil,	2,491.00	2,369.91
White lead,	154.25	120.18
Bicarbonate of soda,	19,735.63	11,933.80

Articles.	Foreign Price.	Tax.
Plain white chinaware,	$2,110,856.05	$1,160,970.83
Glass buttons,	51,022.31	30,613.39
Cheapest window glass,	370,140.49	175,704.99
Spectacles,	33,258.00	19,954.80
Tin plate,	16,691,765.19	13,090,693.75
Razors,	268,148.22	177,450.95
Pen and pocket knives,	911,146.03	829,487.54
Shot guns,	281,657.30	179,472.03
Cotton thread, yarn, etc ,	857,532.60	438,397.81
Collars and cuffs,	93,705.09	64,223.43
Shirts, etc., part linen,	38,738.92	21,306.40
Laces, edgings, etc.,	15,378,898.64	9,227,339.21
Cotton bagging,	35,932.00	11,683.60
Woolen or worsted cloth—		
Lowest grade,	13,097.00	21,360.04
Second grade,	137,569.00	184,796.00
Highest grade,	12,666,256.30	12,603,401.74
Firecrackers,	335,478.60	494,228.07
Boots and shoes,	95,622.42	23,905.62
Lead pencils,	81,509.00	43,749.90
Cotton ties,	56,368.00	25,200.94
Salt in bulk,	176,320.94	145,158.63
Blankets of all kinds,	5,767.00	4,870.31
Wool hats of all kinds,	21,919.01	19,447.21
Women and children's dress goods, part wool,	8,180,127.21	8,140,113.20
Trace and other chains,	64,834.62	31,336.40

These taxes were levied not for revenue but for "protection," and everybody must be his own judge whether similar goods produced in the United States sold for less than the foreign price with the tax added. No sane man would buy these goods abroad and pay the tax, if he could buy them cheaper in the United States. And it may be added that, if the women of the country had been required, after paying $8.18 for dress goods, to hand over to a Federal tax gatherer $8.14, the reputations of certain distinguished gentlemen would have suffered. And it is quite probable that they would have diappeared altogether, if the poor people who paid $13.09 for woolen goods to clothe their families had been obliged to pay $21.36 as a tax to a Federal tax gatherer for the privilege of clothing their families. But the $21.36 was "wrapped up" in the $34.45 the merchant charged for the goods, and the poor people didn't see it. And the authors of this robbery are statesmen and patriots!

NOTE P.

The protective features of the tariff act of April 27, 1816, are constantly resurrected in Congress to confound Southern free-traders and low-tariff advocates, because it was supported by Mr. Calhoun. But a careful reading of it will confound the protectionists; all its protective rates were to be limited to three years, so as to give the "infants" time to exercise their legs and learn to stand alone. For example, it contained these provisions:

"On cotton manufactures of all descriptions * * * as follows, viz: For three years next ensuing the 30th day of June next, a duty of 25 per centum ad valorem; and after expiration of the three years aforesaid a duty of 20 per centum ad valorem," etc.; and

"On all woolen manufactures of all descriptions, except blankets, rags, and worsted stuff or goods" (all of which were left on the free list); "shall be levied, collected, and paid from and after the 30th day of June next, until the 30th day of June, 1819, 25 per centum ad valorem; and after that day 20 per centum on the said articles."

Indeed, some of the most grinding rates in the act of 1824 were to be temporary in their operation; but experience soon satisfied the Congress that there was no hope of the adolescence of the "infants." There are "infants" now on the protected roll which are more than a century old.

Mr. Calhoun's avowed object in favoring a three-years' encouragement of manufactures was to secure the production in the United States of such articles as were sorely needed in the War of 1812; and *pro tanto*, in his view, it was a war measure.

But even this temporary protection did not receive the support from the South which protectionists would have us to believe it did. The votes of the following States in the House of Representatives were as in this table:

	Yeas.	Nays.
Virginia,	7	13
North Carolina,	0	11
South Carolina,	4	3
Georgia,	3	3
	14	30

NOTE Q.

The woolen manufacturers, not satisfied with the privilege of adding twenty-five cents to every dollar's worth of their products, induced their friends in the House of Representatives to pass a bill in February, 1827, "imposing additional duties on imported woolen goods," but it was rejected in the Senate by the casting vote of Vice-President Calhoun. Thereupon steps were taken by the woolen

manufacturers to unite in a convention at Harrisburg representatives of all the industries which were anxious to have their privileges enlarged. They were successful; the convention was held; and by united action they secured the passage of the act of 1828.[1]

NOTE R.

Many of the rates in this tariff were dictated by the manufacturers, as is evident from the following passage in the report of the committee which framed the bill. They examined thirty witnesses, manufacturers and other interested parties, and then made this confession: "Indeed, many of the questions put to the witnesses will afford abundant evidence that the committee had not sufficient practical knowledge upon the subjects before them to enable them to make a series of interrogations, the answers to which would place the testimony taken in the clearest light. * * * None but a person intimately acquainted with the various operations could have drawn out a series of questions upon the subject, susceptible of clear and intelligible answers."[2]

For example, not satisfied with the privilege of selling $1 worth of woolen goods for $1.30, they had the rate so changed that they could sell at $1.40 and $1.45, according to quality.

NOTE S.

One of the strongest reasons given by the committee which framed the tariff bill of 1828 for the protection of the woolen manufacturers was as follows:

"That these depressions (in prices) are owing, in a very great degree, to the excessive and irregular importations of foreign woolen goods into our markets: thus causing a fluctuation in, and an uncertainty of price for those goods, more injurious to the American manufacturer than even the depression of price which these importations produce."[3]

Here was an act passed to insure *certainty of prices* to the woolen manufacturers, while the producer of cotton was unable to adjust his business to any certainty of price. His debts, his taxes, and the prices of his clothing, hats, shoes, salt, farming utensils, etc., did not vary; but the price of his cotton was as uncertain as the weather. In 1821 the Liverpool price of cotton was 19 cents, and in 1831 it was 12 cents (counting a penny as equal to two cents). And during this period the price of a bushel of wheat (at Albany and Troy, N. Y.) varied between six and fourteen shillings.[4]

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[1] See Statesman's Manual, Vol. I, pages 662-63.

[2] See Taylor's Universal History of the United States, page 437.

[3] Taylor, page 438.

[4] See Alden's Cyclopœdia, Article Cotton, and Report of Commissioner of Patents (Agriculture) for 1853, pages 142-43.

CHAPTER XIV.

THE PERSONAL PHASE OF THE TARIFF QUESTION—JACKSON VS. CALHOUN; AND THE POWERS OF CONGRESS—JACKSON AND WEBSTER VS. CALHOUN AND HAYNE.

There seems to have been no serious opposition in early days to extending "protection"—by what Constitutional authority it is not clear—to certain manufactures for limited times.[1] The first tariff proclaimed "protection" as one of its objects, though its 7½ per cent would now be regarded as a "free-trade" rate.

After the War of 1812 the manufacturers of the Northern States, who had been powerfully encouraged by the disturbances of commerce during and preceding the war, clamored for a tariff which would ensure to them a continuance of war prices. They were gratified for three years, and before the three years were ended they secured an extension of their privileges for seven years.

[1] Designed solely as a war measure it was, perhaps, Constitutional; Congress could establish gun shops, powder mills, etc., if they were needed, or it could "encourage" their establishment. To either course there could have been no Constitutional objection, if nothing but the main object could have been kept in view.

"As a general rule," said President Washington in his annual address of December 7, 1796, "manufactures on the public account are inexpedient; but where the state of things in a country leaves little hope that certain branches of manufacture will, for a great length of time, obtain, when these are of a nature essential to furnishing and equipping of the public force in time of war, are not establishments for procuring them on public account, to the extent of the ordinary demand for the public service, recommended by strong considerations * * * as an exception to the general rule?"

But Congress disregarded the implied recommendation; increased tariff rates on clothing, cordage, cotton goods, gunpowder, iron manufactures, pewter plates and dishes, saddles, sail cloth, salt, and some other articles; and continued the 10 per cent discrimination against foreign ships.

About this time it began to dawn on the minds of some that the purpose of the manufacturers was to quarter themselves permanently on the agricultural and other classes of the people. Hence opposition sprang up, and the Constitutional powers of Congress were called in question. It was denied that the Federal Government was organized for the purpose of meddling with the occupations of the people, or of taxing one class of the people for the enrichment of another.

The first serious opposition to protection on this ground appeared in Congress when Mr. Clay's "American system" was introduced in 1824; but unfortunately that was the year when the field was full of candidates for the Presidency, and personal ambition obscured the path of duty. Among those who voted for the "American system," and who afterwards were more or less identified with the tariff contest, was Andrew Jackson, a Senator from Tennessee, and a prominent candidate for the Presidency. The bill was passed by four majority in the Senate, and five in the House, the division being mainly between the South on one side, and the North on the other.

Naturally the strife went from the halls of Congress into the States. On the 24th of December, 1827, the Legislature of Georgia denounced the tariff act of 1824 as unconstitutional, and threatened resistance to its execution in that State. About the same time the Legislature of South Carolina instituted a committee to inquire into the powers of the Federal Government, in reference to the tariff and also in reference to internal improvements, schemes for which were then beginning to be devised for the purpose, in part, of necessitating high taxes. The report of the committee, which received the sanction of both houses December, 1827, recited the conditions on which the States had entered

into the Union; and declared that whenever the terms of the compact were violated, it was the right of the people and of their State Legislature to remonstrate, etc.; denied the right of Congress to appropriate the public money for the construction of roads, canals, etc., within the States; denounced the tariff act of 1824 as unconstitutional; and asserted that whenever "the Constitution was violated in spirit, and not literally, there was a peculiar propriety in the State Legislature's undertaking to decide for itself, inasmuch as the Constitution had not provided any remedy."

These remonstrances against protective tariffs and misappropriations of public moneys, known to be in accordance with public sentiment in the other Southern States, were transmitted to the Congress in the hope that a spirit of justice, if not solicitude for the perpetuity of the Union, would lead to a satisfactory modification of the laws.[1] But the year 1828—another year for Presidential candidates to exhibit their patriotism—dashed all these hopes. Congress was deluged with memorials from the hungry manufacturers; many manu-

[1] Opposition to the "American system" was not confined to the South when it first began to threaten the tranquillity of the Union. "In 1827," says M. M. Trumbull's Free-Trade Struggle in England, page 13, "when our 'infant industries' were much more infantile than they are now, a committee of the citizens of Boston thus protested against the injustice of a protective tariff. They declared it false to say that 'dear goods made at home are better than cheap ones made abroad; that capital and labor can not be employed in this country without protective duties; that it is patriotic to tax the many for the benefit of the few; that it is just to aid by legislation manufactures that do not succeed without it; that we ought to sell to other nations, but never buy from them.' They go on to say 'these are, we have long since known, fundamental principles among the advocates of the American system. It is, however, extraordinary that these ancient and memorable maxims, sprung from the darkest ages of ignorance and barbarism, should take their last refuge here.'"

facturers—no farmers—were examined by the Committee on Manufactures, "and on the 31st of January (1828), after spending four weeks in these inquiries, they made a report"; a bill was framed and passed increasing "the rate of duties" on many articles and lowering it on none.

The evident helplessness of the Southern people, since the Constitution provided no tribunal in which they could successfully attack an act of Congress which, with a title concealing its real purpose, was within the language of the Constitution, induced Hon. William Drayton, of South Carolina, to offer an amendment to the bill, declaring what its real purpose was; but the protectionists, afraid of the Supreme Court, refused to accept it.

During this and the next year North Carolina, Alabama, and Virginia joined in condemning the policy of protection, and the two latter declared their assent to the doctrine of nullification (in the Virginia House by a vote of 134 to 68).

In the midst of the discontent the Presidential election resulted in the choice of Andrew Jackson, a Southern man and a native of South Carolina; and a glimmer of hope came to the people. This hope was strengthened when in his inaugural address March 4, 1829, he expressed this sentiment:

"With regard to a proper selection of the subjects of impost, with a view to revenue, it would seem to me that the spirit of equity, caution, and compromise, in which the Constitution was formed, requires that the great interests of agriculture, commerce, and manufactures should be equally favored."[1] And again in his first

[1] There is nothing in the Constitution authorizing the Government to favor "agriculture, commerce, and manufactures" any more than rail-splitting; and it is impossible to favor one industry without burdening all others.

annual message to Congress December 8, 1829, he said:

"In deliberating, therefore, on these interesting subjects"—the tariff rates—"local feelings and prejudices should be merged in the patriotic determination to promote the great interests of the whole. All attempts to connect them with party conflicts of the day are necessarily injurious, and should be discountenanced. * * * Legislation, subjected to such influences, can never be just, and will not long retain the sanction of the people, etc. Discarding all calculations of political ascendency, the North, the South, the East, and the West should unite in diminishing any burden of which either may justly complain."

But nothing was done during that session of the Congress, and hope was deferred till the next winter session.

A new question, however, was brought forward in Congress in the latter part of January, 1830, which was destined to overshadow the tariff. Seeing no prospect of relief, through the courts, from any burdens that might be imposed on their constituents by the representatives of the protected and bounty-fed classes in the Northern States, some of the Southern members of Congress— notably Senator Hayne, of South Carolina—began a discussion of the terms on which the States had agreed to form a Union; of the sources of power in the Federal Government; and of the right of a State to interpose and arrest the execution of any Federal measure oppressive to its citizens and violative of the Constitution, and as a last resort to withdraw from the Union.

This was an unfortunate move, aside from any merit in it; it united against those who held Mr. Hayne's opinions many of the honest and sincere friends of the Union and all those who were, or hoped to be, beneficiaries of Federal legislation. Naturally, a champion of the Union was sought for; and he was found in Daniel

Webster, whose reply to Hayne added very much to his fame, was regarded as a *coup de grace* to "States' rights," and became as familiar as "Mother Goose's Melodies" in every section of the Union.

Thus the tariff was obscured to some extent by the dangers to the Union, and Mr. Hayne and his sympathizers were placed in the false position of moral criminals.

Let us now, since we have passed away from the excitements of those times, candidly inquire into the soundness of Mr. Webster's argument. He delivered two speeches, one on January 25th and the other two days afterwards, as a rejoinder. We will consider them as one.

1. He asserts that the power of Congress is unlimited in granting public lands for roads, canals, education, etc., in Ohio and other Western States, without regard to the conditions on which Virginia and other States ceded the lands to the United States; and he finds his authority in the "common good", it being, he declares, "fairly embraced in its objects and its terms."

2. Of the Government he says: "It is not the creature of State Legislatures;[1] nay, more, if the whole truth must be told, the people brought it into existence, established it, and have hitherto supported it, for the

[1] The first independent legislative bodies in the Colonies were empowered by the people to do everything necessary and proper for their welfare, including the forming of alliances. They were at the same time law-making bodies and Conventions. But after Constitutions were formed, the governments organized under them were restricted to functions not affecting their external relations. Hence the will of the people on matters not provided for in the Constitutions could be ascertained only by what in our political nomenclature are known as Conventions. By Conventions, therefore, was the Constitution of the United States adopted; and it seems to be little better than a quibble to declare that it was not adopted by "State Legislatures."

very purpose, among others, of imposing certain salutary restraints on State sovereignties."

3. Having not lived to see the "reconstruction measures" thrown out of court, as not coming under its jurisdiction, he asserts that all questions involving the rights of the States and the powers of the Congress belong for decision to the United States courts.

4. Of the Government, again, he says: "So far from saying that it is established by the governments of the several States, it does not even say that it is established by the people of the several States; but it pronounces that it is established by the people of the United States in the aggregate. * * * So they declare; and words can not be plainer than the words used. * * * They ordained such a Government, they gave it the name of a Constitution, and therein they established a distribution of powers between this, their General Government, and their several State governments."[1]

To the first of these propositions Mr. Madison, in No. XLI, of the Federalist, gives answer: "It has been urged and echoed, that the power to 'lay and collect taxes, etc., to pay the debts, and provide for the common defense and general welfare,' etc., amounts to an unlimited commission to exercise every power which may be alleged to be necessary for the common defense or general welfare. No stronger proof could be given of the distress under which these writers labor for objections, than their stooping to such a misconstruction."

To the third proposition a satisfactory answer was given by the protectionists when they declined to have the purpose of their tariff bill declared in its title.

To the second and fourth Mr. Webster's speech at Capon Springs June 28, 1851, is a sufficient answer.

[1] See G. G. Evans's Union Text-Book, pages 108–128.

But all the same, there was scarcely a neighborhood in the Union in which soon afterwards could not be seen a lithograph of Mr. Webster with "EXPOUNDER OF THE CONSTITUTION," in large capitals, placed under his name.

While the assumed overthrow of Mr. Hayne was engrossing public attention and solidifying all the forces which confounded the preservation of the Union with the right of Congress to "foster" one branch of industry by taxing others, a personal controversy was thrust on public attention, and shared with the Webster-Hayne debate in drawing the people's thoughts from the real question which their welfare required to be calmly and dispassionately decided.

President Jackson and Vice-President Calhoun, who was a hopeful aspirant to the Presidency on the retirement of Jackson,[1] had all along been close friends, and it was understood that the General was favorable to his candidacy. To Mr. Calhoun, says the Statesman's Manual, Vol. 2, page 971, "as a more early and efficient supporter, the President had given a greater share of confidence, and manifested a warmer feeling, than he had originally bestowed on the Secretary of State" (Martin Van Buren). "In this particular the Secretary labored under a disadvantage," as a candidate for the succession; "but circumstances soon enabled him to obtain a great superiority of influence over the mind of the President."

By some means Mr. Van Buren—there may have been other aspirants concerned in it—came into possession of a letter which revealed the cabinet secret that in 1818, after General Jackson, in violation of orders, had invaded Spanish territory (Florida) and thereby provoked

[1] Jackson had declared his intention to retire after one term.

a remonstrance from the Spanish Minister in Washington, Mr. Calhoun, the Secretary of War, proposed that a court of inquiry should be held on General Jackson's conduct. This letter Mr. Van Buren managed to have placed in the hands of General Jackson. It served its purpose; it interrupted the close relations between the President and the Vice-President; a coolness ensued, and then an open rupture in May, 1830; and thereafter Jackson was an unrelenting foe of Calhoun.

This controversy played into the hands of the protected manufacturers, who soon had the pleasure of seeing the tariff question drift into a more or less personal warfare between the President of the United States, with all his power, prestige, and influence, and Mr. Calhoun, the intellectual head of the States' rights advocates, the ablest statesman of his generation, perhaps the greatest and purest man in public life, and a man of whom Mr. Webster said in his funeral oration "nothing groveling, or low, or meanly selfish" ever "came near the head or the heart."

The first official utterance from the Executive Mansion intended to weaken the force of the arguments of the opponents of protection, and lessen the influence of Mr. Calhoun, was an attempt to find authority for protection in the Constitution. It was in the annual message of December 7, 1830, as follows: "The object of the tariff is objected to by some as unconstitutional; and it is considered by almost all as defective in many of its parts.

"The power to impose duties on imports originally belonged to the several States. The right to adjust those duties with a view to the encouragement of domestic branches of industry, is so completely identical with that power, that it is difficult to suppose the ex-

istence of the one without the other.[1] The States have delegated their whole authority over imports to the General Government, without limitation or restriction, saving the very inconsiderable reservation relating to their inspection laws. This authority having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them; and, consequently, if it be not possessed by the General Government, it must be extinct. Our political system would thus present the anomaly of a people stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations.[2] This surely can not be the case: this indispensable power, thus surrendered by the States, must be within the scope of the authority on the subject expressly delegated to Congress."[3]

This latitudinous construction of the powers of Congress by the chosen leader of the only party which offered any obstruction to the substitution of the discretion of Congress for the grants and limitations of the Constitution, was a complete justification of taxing one man for the benefit of another; and, if sustained by the representatives of the States and of their people, it removed

[1] Why does not the power to lay and collect "excises" include the power to tax all fisheries except the cod-fishery, and thus "foster" that industry?

[2] "Treaties of commerce have been found, by experience, to be among the most effective instruments for promoting peace and harmony between nations whose interests, exclusively considered on either side, are brought into frequent collisions by competition."—See J. Q. Adams's Annual Message, December 8, 1827.

[3] "Hitherto, I believe it may safely be asserted, that these duties"—levied on imports in the several States—"have not upon an average exceeded in any State 3 per cent."—(See Federalist, No. XII., by Hamilton). Such, according to the President, was the protection afforded to manufactures, and such was the protecting power delegated to the Congress!

every barrier to the rapacity or tyranny of factions or parties which might gain control of the Federal machinery.

But it was the only ground possible to be taken against Mr. Calhoun's views, and General Jackson's zeal got the better of his judgment, as is evident from the following extract from his farewell address published six years afterwards (March 3, 1837): "Its (the Government's) legitimate authority is abundantly sufficient for all the purposes for which it was created; and its powers being expressly enumerated, there can be no justification for claiming anything beyond them. Every attempt to exercise power beyond these limits should be promptly and firmly opposed. For one evil example will lead to other measures still more mischievous; and if the principle of constructive powers, or supposed advantages, or temporary circumstances, shall ever be permitted to justify a power not given by the Constitution, the General Government will before long absorb all the powers of legislation, and you will have, in effect, but one consolidated government." And, again, "every friend of our free institutions should be always prepared to maintain unimpaired and in full vigor the rights and sovereignty of the States." And, again, "Congress has no right under the Constitution to take money from the people unless it is required to execute some of the specific powers intrusted to the Government."

At that session of Congress nothing was done with the tariff; and during that year (1831) public attention was kept directed to the personal differences between the President and his cabinet, the schemes of Martin Van Buren to promote his own candidacy, and to the measures of the "kitchen cabinet," though the tariff was sufficiently absorbing in some quarters to induce the assembling of a free-trade convention in Philadelphia on

the 1st of October, and a tariff convention in New York on the 26th of the same month. That year also General Jackson changed the purpose announced in 1828 to decline a reelection to the Presidency, and made active efforts to insure his renomination.

On the 5th of December Congress met in regular session, and the people were anxious to know what view of the tariff he would now present in his message. The necessity for high taxes, it was known, would cease in a few years, since the public debt was rapidly approaching extinction; he said, in the message, that it would all be paid during his Administration, or by March 4, 1833. Hence, since the ordinary expenses of the Government did not reach $15,000,000, while the receipts of the treasury were more than $27,000,000, it was clearly the duty of the Congress to provide for a gradual reduction of tariff rates down to about half of the existing rates.

Accordingly the President, after reciting the above facts as to the public debt and the treasury receipts, advised a reduction as follows:

"A modification of the tariff, which shall produce a reduction of our revenue to the wants of the Government, and an adjustment of the duties on imports with a view to equal justice in relation to all our national interests, and to the counteraction of foreign policy, so far as it may be injurious to those interests, is deemed to be one of the principal objects which demand the consideration of the present Congress. Justice to the interests of the merchant, as well as the manufacturer, requires that material reductions in the import duties be prospective; and unless the present Congress shall dispose of the subject, the proposed reductions can not properly be made to take effect at the period when the necessity for the revenue arising from present rates

shall cease. It is, therefore, desirable that arrangements be adopted at your present session to relieve the people from unnecessary taxation, after the extinguishment of the public debt."

This recommendation, barring its assumption of power to adjust rates for fostering some interest against "foreign policy," was gratifying to the agricultural class, and tended to check excitement in the country.

But the Congress disregarded the recommendation; and unfortunately for the President and his good intentions, he had at the previous session of Congress assisted the protectionists in keeping up the necessity for high taxes by repudiating his previous construction of the Constitutional powers of Congress (in his Maysville Road veto) and approving a scheme of internal improvements which could ever after be repeated whenever there was a surplus in the treasury.[1] Instead, therefore, of reducing the tariff rates as the President had recommended, the protectionists introduced and urged the passage of various internal improvement measures; and devised a plan for distributing among the States the proceeds of the sales of the public lands.[2]

The first bill they passed—the result of much "log-rolling"—carried an "amount exceeding $1,200,000," and was approved by the President. The second was for improving certain rivers and harbors, but it was vetoed.[3]

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[1] In late years pension appropriations have furnished an additional outlet for any surpluses in the treasury; at the close of the Presidential term, March 4, 1889, a surplus of over one hundred million dollars was neatly disposed of by the "dependent pension" bill.

[2] To get this money permanently out of their way, they passed a bill in the winter session of 1832–'33 to distribute it among the States; but a "pocket" veto prevented it from becoming a law.—(See Statesman's Manual, Vol. II, p. 1,012).

[3] Statesman's Manual, Volume II, pages 994–95.

Having thus freed themselves from any necessity for serious reductions, they passed a bill lowering the rates on such articles as did not come in competition with like articles produced in the Northern States. Except a slight reduction on bagging, there was no lowering of the rates on cotton manufactures; on woolen yarn 4 cents per pound was added to the existing rate; on manufactures of wool not otherwise provided for the rate was advanced from 45 to 50 per cent; on wool hats there was no reduction from 30 per cent; on leather shoes there was no reduction from 25 cents per pair; on ready-made clothing there was no reduction from 50 per cent; on cut nails there was no reduction from 5 cents per pound; on earthenware there was no reduction from 20 per cent; on window glass there was no reduction from $3 for the cheapest and $5 for the dearest per 100 square feet, etc.,etc. *Having been approved* by President Jackson, this bill became a law on the 14th of July, 1832.

Thereupon the members from South Carolina issued an address to their constituents in which they said with much truth that under such a system "the burden of supporting the Government was thrown exclusively on the Southern States, and the other States gained more than they lost by the operations of the revenue system." The address concluded thus: "They will not pretend to suggest the appropriate remedy, but after expressing their solemn and deliberate conviction that the protecting system must now be regarded as the settled policy of the country, and that all hope of relief from Congress is irrevocably gone, they leave it with you, the sovereign power of the State, to determine whether the rights and liberties you received as a precious inheritance from an illustrious ancestry, shall be tamely surrendered without a struggle, or transmitted undimined to your posterity."

Meetings were accordingly held in South Carolina, the tariff was denounced, and pledges entered into to support any measures the Legislature might adopt; and in the elections that year the anti-protectionists elected about three-fourths of the members of each House of the Legislature.

As soon as this was ascertained. Governor Hamilton convened the Legislature on the 22d of October, 1832. Early action was necessary, because it was expected that whatever was done would have an influence on the Congress which was to meet on the first Monday in December; and it was hoped that a bold stand for the rights of the State would have the same result as Georgia's stand had had in the contest over the lands ceded by the Creek Indians.

Immediately upon the assembling of the Legislature the tariff question was taken up, and a bill was passed on the 25th authorizing a State Convention to meet on November the 19th. It passed the Senate by 31 to 13, and the House by 96 to 25.

Delegates to the convention were promptly elected, and that body met on the appointed day, and, as hasty action was necessary in view of the early meeting of Congress, a committee was appointed at once to propose a plan of escape from the burden of the tariff. An appeal to the courts was clearly useless; for, although the purpose of many of the provisions of the law were grossly violative of the spirit of the Constitution and of the rights of the States, it was Constitutional in form and avowed purpose. There being no court, therefore, to which the State could appeal, the committee reported an ordinance, which was passed on the 24th, declaring that the tariff act of May 29, 1828, and that of July 14, 1832, were unauthorized by the Constitution; that they violated the true meaning and intent of it; that they

were, therefore, null and void, not binding on the citizens of that State; and that the duties imposed by said acts should not be collected in the ports of that State after February 1, 1833. It also declared that any attempt on the part of the Federal Government to collect by force the duties imposed by those acts would be inconsistent with the longer continuance of that State in the Union. And the Legislature, which was to assemble in three days, was directed to pass all necessary acts to enforce this ordinance.

This was the seventh act of resistance to the Government of the Union.

1. The first was the refusal of Gov. John Hancock, of Massachusetts, to obey an order from a Federal court, issued in pursuance of a power expressly delegated to the Federal judiciary. His reason was that a sovereign State could not be sued, Constitution or no Constitution. His reason was held to be sound, and to prevent any further conflicts of State and Federal authority, the eleventh amendment was added to the Constitution.

2. The second was New England's resistance to a law of the Union. In the winter of 1808-'9 Congress passed an act to arm the President with additional powers for enforcing the embargo, but certain disclosures made by Mr. J. Q. Adams of the purpose of the ruling party in New England to withdraw their States from the Union frightened Congress, and the embargo was repealed.

The disclosures were made in February, 1809, and the repealing act was passed on the 1st of March.[1]

3. The third was the refusal of Gov. Caleb Strong, of Massachusetts, to comply with Mr. Madison's call for the militia of Massachusetts in the prosecution of the War of 1812. This refusal was announced as early as August 5, 1812, and it was adhered to during the war,

[1] Statesman's Manual, Volume I, page 262.

in contempt of the Constitution and of the militia act passed February 28, 1795.[1]

4. The fourth was like unto the second. The first act passed at the session of Congress which assembled December 6, 1813, and adjourned April 8, 1814, was a law laying an embargo on all vessels within the limits of the jurisdiction of the United States, to continue in force till January 1, 1815, unless the war ended sooner, for the purpose of preventing "small vessels and boats from supplying the British squadrons on the coast with provisions"; but the threatening attitude of New England forced Congress to repeal the act four days before it adjourned, and permit the "downeasters" to feed the British.[2]

5. The fifth was the threatening aspect of the proceedings which led to the holding of the Hartford Convention. These induced Mr. Madison to make peace with Great Britain without insisting on her renouncing the right of search or the right to impress seamen—the only causes for which the war was declared.

6. And the sixth was Governor Troup's resistance to the execution of a treaty made with the Creek Indians.[3]

The first, therefore, was a nullification of the power of the Federal judiciary, and the others nullifications, real or threatened, of the powers of Congress or of the President; and since they affected no powerful moneyed interests, and there were no personal motives for suppressing the offenders, the Federal authorities yielded.[4]

[1] See Monroe's Special Message, February 24, 1824.

[2] Statesman's Manual, Volume I, page 366.

[3] See Stephens's Pictorial History of the United States, page 443.

[4] Just as was done when thirteen Northern States nullified that

South Carolina's act, however, threatening to deprive the protected class of their unjust privilege of robbing the people, was represented as an effort to break down the Federal Government by withholding necessary supplies—a charge which was false, since her ordinance was not to go into effect till two months after the regular session of Congress began, thus affording sufficient time for that body to amend the tariff.

The President, determined to crush Mr. Calhoun, who was regarded as the trusted guide of his people, and who, by an arrangement with the South Carolina authorities, resigned the office of Vice-President[1] and entered the Senate as the successor of Mr. Hayne, who was chosen Governor, issued a ringing proclamation on the 10th of December, announcing his purpose to collect the revenues at Charleston by force if necessary, ordered all the available military force to assemble at Charleston, and had a sloop-of-war sent to protect the custom-house officers. His proclamation contained some remarkable opinions as to the nature of the Union and the provisions of the Constitution—remarkable in the light of some of his previous utterances. Let us review some of them.

1. He calls the Union a "social compact," and the United States "it", in the following sentence: "But reasoning on this subject is superfluous, when our social compact in express terms declares that the laws of the

section of the Constitution which bound them to deliver up fugitives from labor.

But to-day, if we examine any dictionary or cyclopœdia, we shall be told that nullification applies only to an act of Congress, and, in the narrow view of the Century Dictionary, that the "doctrine was elaborated by John C. Calhoun, and applied by South Carolina in 1832."

[1] December 28.

United States, its Constitution, and treaties made under it," etc.

2. Of the Declaration of Independence he says: "We declared ourselves a nation by a joint, not by several, acts"; and of the Articles of Confederation he says: "It was in that (form) of a solemn league of several States, by which they agreed that they would collectively form one nation." And of the Confederation he again says: "But the defects of the Confederation need not be detailed. Under its operation we could scarcely be called a nation."

3. Of the Constitution he says: "We have looked to it with sacred awe as the palladium of our liberties, and, with all the solemnities of religion, we have pledged to each other our lives and fortunes here, and our hopes of happiness hereafter, in its defense and support." And of the Union he says that it is yet time to show that "the descendants of the Pinckneys, the Sumters, etc., will not abandon that Union, to support which so many of them fought, and bled, and died."

4. Of the Constitution he again says that "the terms used in its construction show it to be a Government in which the people of all the States collectively are represented."

5. Of the Members of Congress he says: "When chosen they are all representatives of the United States, not representatives of the particular State from which they come."

6. Of secession he says: "But each State having expressly parted with so many powers as to constitute jointly with the other States a single nation, can not from that period possess any right to secede, because such secession does not break a league, but destroys the unity of a nation. * * * To say that any State may

at pleasure secede from the Union, is to say that the United States are not a nation."[1]

7. Of sovereignty he says: "The States severally have not retained their entire sovereignty. It has been shown that in becoming parts of a nation, not members of a league, they surrendered many of their essential parts of sovereignty." And as a sample of this surrender he gives this: "They have expressly ceded the right to punish treason—not treason against their separate power—but treason against the United States. Treason is an offense against *sovereignty*, and sovereignty must reside with the power to punish it."

8. He says the Federal Government gave to all the inhabitants of the States "the proud title of American citizens"; but that if we secede from the Union, "the very name of Americans we discard"—"that Union," he says, "to support which, so many of them fought, bled, and died."

While thus laying down that exposition of the nature of the Government which will, in his judgment, justify the infliction of the penalties of treason on the people of South Carolina, he does not omit to point out the object of his special spite, thus: "Let those among your leaders who once approved and advocated the principle of protective duties," etc., referring to Mr. Calhoun's course in 1816. Again he says: "Those who told you that you might peaceably prevent their execution deceived you; they could not have been deceived themselves."

Now let us inquire into the soundness of his doctrines. We will take them in the order presented above.

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[1] President Jackson seems to have forgotten that the ratifying Conventions of New York and Virginia declared the right of those States to revoke the powers they were delegating in the Constitution.—El. Deb., I, 327–329.

1. He says in this proclamation that under certain circumstances there must be an "acquiescence in the dissolution of our Union by the secession of one of its members." Now a "member" of a "social compact" is one human being; hence if South Carolina is a "member," it is an inexcusable confusion of thought to call the Union a "social compact."

2. There is not a syllable or hint in the Declaration of Independence, or in the Articles of Confederation, or in the Constitution justifying the assertion that the peoples of the States ever became a "nation," except what might be inferred from the power to regulate commerce "with foreign nations"—a phrase which was unavoidable, and which implied nothing as to the political institutions of any "foreign nation," or of these States. On the contrary, when Gov. Randolph's plan of a Constitution was under discussion, containing a provision for a "national government," Mr. Ellsworth of Connecticut, on June 20, moved to strike out the word "national"; and it was done, *nem. con.*[1]

3. There is nothing in our history warranting the pretension that anybody ever fought, bled, or died for the purpose of binding one of these States to irremediable submission to the will of others.

4. "Collectively" is defined by Webster's Dictionary thus: "In a mass, or body"; while the Constitution says that representatives shall be apportioned among the "several States"—several meaning separate.

5. The Constitution says: "Each State shall have at least one representative"; and that "in choosing the President, the votes shall be taken by States, the representation from each State having one vote." In the Senate no State can be deprived of its equal voice with-

[1] See Yates, page 152.

out its consent. And each State votes for President through its own electors. In what sense, therefore, members of Congress are "representatives of the United States, not representatives of the particular State from which they come," it is impossible to understand.

6. Here the President admits that if the United States are not a "nation," any State can secede.[1]

7. The Constitution provides for the surrender to a State of any person who has committed treason against it, and fled to another State. And it defines treason against the United States as "levying war against them"—the States. Hence, if "treason is an offense against sovereignty," the only sovereignty recognized by the Constitution as existing in our Union is that inherent in each State.

8. "American citizens" carries its own comment.

To this review and criticism of the President's doctrines, it is fortunate that we can add his own, which was called out by the Richmond Enquirer, the Petersburg Intelligencer, and some resolutions in the Legislature of Virginia. An explanation of the principles of the Proclamation was given to the public in the Washington Globe, by the authority of the President.

In the course of the editorial it said: "But we are authorized to be more explicit, and to say positively, that no part of the Proclamation was meant to countenance principles which have been ascribed to it. On the contrary, its doctrines, if construed in the sense they were intended, and carried out, inculcate that the Constitu-

[1] And he yields everything claimed by the secessionists when he states his objection to South Carolina's ordinance thus: "The ordinance is founded * * * on the strange position that * * * the true construction of that instrument (the Constitution) permits a State to retain its place in the Union, and yet be bound by no other of its laws than those it may choose to consider as Constitutional."

tion of the United States is founded on compact—that this compact derives its obligation from the agreement, entered into by the people of each of the States, in their political capacity, with the people of the other States—that the Constitution, which is the offspring of this compact, has its sanction in the ratification of the people of the several States, acting in the capacity of separate communities," etc. And again it says: "That in the case of a violation of the Constitution of the United States, and the ursurpation of powers not granted by it on the part of the functionaries of the General Government, the State governments have the right to interpose and arrest the evil, upon the principles which were set forth in the Virginia resolutions of 1798, against the Alien and Sediton Laws—and, finally, that in extreme cases of oppression (every mode of Constitutional redress having been sought in vain), the right resides with the people of the several States to organize resistance against such oppression, confiding in a good cause, the favor of heaven, and the spirit of freemen, to vindicate the right."[1]

This was an admission of the truth of the doctrines of Mr. Calhoun and his supporters, in every essential particular, including the right of South Carolina to be its own judge of infractions of the Constitution, and of the "mode and measure of redress."

But the lameness of argument against the right of the State to resist the execution of what it believed to be an unconstitutional act was less remarkable than the assumption that a government created by an association of States can compel, by force of arms, one of its creators to submit to its decrees. Under any circumstances and under any political system such a claim would strike

[1] Statesman's Manual, Volume II, pages 808-826, and Stephens's War Between the States, Volume I, pages 462-472.

the intelligent portion of mankind as unfounded, unless there were some positive and unmistakable power delegated for such a purpose in the charter of the government. In this case nothing of the sort could be found; on the contrary, it had been deliberately withheld in the framing of the Constitution. In the plan of Governor Randolph, who next to Mr. Hamilton, was perhaps the foremost advocate of a consolidated government, it was proposed to confer on the "National Legislature" the power "to call forth the force of the Union against any member of the Union failing to fulfill its duty under the Articles thereof." But the proposition received no favor; it was well known that the States would never adopt a Constitution containing such a provision.[1]

But President Jackson derived the power to "coerce" a State from what he acknowledged in the above-mentioned editorial and in his farewell address to be an incorrect interpretation of the grants of power by the States.

After the issuance of this Proclamation it was "distinctly foreseen," says the Statesman's Manual, "that the final contest relating to a protecting tariff was about to be decided. Upon distributing the various subjects recommended to the consideration of Congress, this was referred in the House, to the Committee of Ways and Means, of which Mr. Verplanck, of New York, was Chairman. * * * It was now determined to remodel the whole, to conciliate its opponents at the South, and on the 27th of December, a bill was reported by the Committee of Ways and Means, which was understood to embody the views of the Administration. * * *

"While the discussion on the bill was going on, new

[1] Elliot's Debates, Volume V, pages 128-269.

interest was imparted to the subject by a message from the President to Congress, on the 16th of January, communicating the South Carolina ordinance and nullifying laws, together with his own views as to what should be done under the existing state of affairs. * * *

"The whole subject was now before Congress; and the State Legislatures being generally in session, passed resolutions expressing their opinions as to the course that body ought to adopt.

"In the Legislatures of Massachusetts, Connecticut, New York, Delaware, Tennessee (Jackson's State), Indiana, and Missouri (the State of Senator Benton, who was an uncompromising partisan of Jackson), the doctrines of nullification were entirely disclaimed, as destructive to the Constitution. Those of North Carolina and Alabama were no less explicit in condemning nullification, but they also expressed an opinion that the tariff was unconstitutional and inexpedient.[1]

"The State of Georgia also reprobated the doctrine of nullification as unconstitutional, by a vote of 102 to 51 in her Legislature; but it denounced the tariff in decided terms, and proposed a convention of the States of Virginia, North Carolina, South Carolina, Georgia, Alabama, Tennessee, and Mississippi, to devise measures to obtain relief from that system.

"The Legislature of Virginia assumed a more extraordinary ground. * * * Finally resolutions were

[1] The Legislature of North Carolina, while holding that nullification was "revolutionary in its character," declared that "protection" was unconstitutional, impolitic, unjust, and oppressive, and urged the repeal of the obnoxious Tariff Act; and it instructed the Senators and requested the Representatives "to use all Constitutional means in their power to procure a peaceable adjustment of the existing controversy between the State of South Carolina and the General Government, and to procure a reconciliation between the contending parties."

passed, earnestly requesting South Carolina not to proceed further under the ordinance, etc., and declaring that the people of Virginia expect that the General Government and the government of South Carolina will carefully abstain from all acts calculated to disturb the tranquillity of the country.

"After further resolving that they adhere to the principles of the Virginia resolutions of 1798, but that they do not consider them as sanctioning the proceedings of South Carolina, or the President's Proclamation, they proceeded to appoint Benjamin W. Leigh, as a commissioner on the part of the State, to proceed to South Carolina, to communicate the resolutions, etc.

"The State of New Hampshire expressed no opinion as to the doctrines of South Carolina, but the Legislature passed resolutions in favor of reducing the tariff to the revenue standard.

"On the other hand, the Legislatures of Massachusetts, Vermont, Rhode Island, New Jersey, and Pennsylvania"—manufacturing States—"declared themselves to be opposed to any modification of the tariff."[1]

After the evident intention of Congress to adjust the tariff so as to avoid a collision between General Jackson and South Carolina had abated the excitement in that State, its political leaders held a convention in Charleston (January 31), and resolved that the nullification ordinance and the laws passed in pursuance of it should be suspended during the then session of Congress.[2]

Congress had much difficulty in agreeing to a satis-

[1] Statesman's Manual, Volume II, pages 1,008–1,010.

[2] The fairness of New England historians can be inferred from the following remark made by Montgomery (p. 243): "So saying, the President ordered General Scott to go forthwith to Charleston and enforce the law. It was done, and the duties on imported goods in that city were collected as usual."

factory bill; but at last a bill was passed, 119 to 95 in the House and 29 to 16 in the Senate, and was approved by the President on the 2d of March.

Mr. Calhoun, in a speech approving the bill, said: "He who loves the Union must desire to see this agitating question brought to a termination. Until it should be terminated, we could not expect a restoration of peace or harmony, or a sound condition of things, throughout the country. He believed that to the unhappy divisions which had kept the Northern and Southern States apart from each other, the present entirely degraded condition of the country, for entirely degraded he believed it to be, was solely attributable. * * *

"He said that it had been his fate to occupy a position as hostile as any one could in reference to the protecting policy; but, if it depended on his will, he would not give his vote for the prostration of the manufacturing interest. A very large capital had been invested in manufactures, which had been of great service to the country, and he would never give his vote to suddenly withdraw all those duties by which that capital was sustained in the channel into which it had been directed."

Such was the end of the seventh nullification.[1] The act provided "that where the duties exceeded 20 per cent, there should be one-tenth part of the excess deducted after December 30, 1833, and one-tenth each alternate year, until December 31, 1841, when one-half of the residue was to be deducted, and after June 30, 1842, the duties on all goods were to be reduced to 20 per cent."

But although the tariff struggle had been thus ended for the time, it had left wounds on the Constitution

[1] South Carolina's Convention reassembled on the 11th of March, and repealed her nullification ordinance.

which never healed. The doctrines taught by Daniel Webster and Andrew Jackson, which they both shrank from in after years—the former in 1851, and the latter in 1837—made impressions on the people which were destined to lead to deplorable results.

CHAPTER XV.

SUGAR AND RUM DRAWBACKS, AND FRAUDS: ANOTHER BURDEN ON THE SOUTH.

Any attempt to sum up the wrongs attending our tariff legislation would be incomplete if it omitted the favors granted to, and the frauds practiced by, the refiners of sugar and the distillers of rum. Our sources of information are meagre; it would be a reflection on the cuteness of "the wise men of the East" to suppose otherwise. But enough has been made public to warrant the suspicion that these two classes of "patriots" have been handsomely rewarded for their share in building up "home" industries, and rendering us independent of foreigners.

It was only simple justice to return to the refiner of sugar for export and to the distiller of rum for export the duties which had been paid on the raw sugar and the molasses consumed in their operations; and accordingly provision was made in the early tariff acts for these drawbacks.

The results were what might have been expected; Louisiana sugar was mixed with imported sugars, and cheap whiskey was mixed with the rum.

As far back as the session of Congress which met in December, 1827, it was proved before a committee of the House of Representatives that large quantities of cheap whiskey were used in the manufacture of New England rum, having been deprived of its peculiar taste and flavor by filtration through charcoal; and that the exporters of this rum demanded and received the drawback they would have been entitled to if nothing but imported molasses had been used in the manufacture.

The sugar refiners, however, escaped public attention

till after the revelations made by the working of the compromise tariff act of 1833. That act provided for a reduction of import taxes on molasses and raw sugar, but it made no corresponding reduction of the drawbacks. Hence the reports of the Treasury Department made the revelation that in 1837 the drawback on exported refined sugar exceeded the revenue collected on imported raw sugar by $861.71; and that in 1839 about all the molasses imported (392,368 gallons) was exported as rum (356,699 gallons), leaving for the "home market" no rum and no molasses except that produced in Louisiana.

The excess of drawback on sugar (according to Doc. No. 275, submitted to the Senate by the Secretary of the Treasury in the winter of 1839 and 1840) rose in 1838 to $12,690, and in 1839 to $20,154; and the report showed that in 1839 the refiners exported 400,000 pounds of sugar more than was imported.

It went further; it estimated that the excess of the sugar drawback, supposing the amount imported not to increase over what it was in 1839, would be $37,343 in 1840, $37,343 in 1841, $114,693 in 1842, and $140,477 in 1843.[1]

The beneficiaries of these bounties and frauds were twenty-nine refineries, "the whole of which," said Mr. Benton, "omitting some small ones in the West, and three in New Orleans, were situate on the north side of Mason and Dixon's line."

The frauds perpetrated by the distillers seem to have been productive of more "gayneful pilladge" than the sugar frauds. The average yield of a gallon of molasses, according to evidence in Mr. Benton's possession, was less than a gallon of rum. But the census of 1850

[1] See chapter 53, Volume II, Thirty Years' View.

gave 6,500,500 gallons of rum as the product of 1849, while the importations of molasses were only 3,885,525 gallons. The distillers, therefore, received as drawback about $1.70 for every $1 paid into the treasury on imported molasses. And this is not remarkable; the estimate for 1842, in the Secretary's report, was that all the molasses revenue would go to the distillers.

The beneficiaries of the rum drawback and frauds lived, as did most of the sugar refiners, "north of Mason and Dixon's line." Maine, Massachusetts, Connecticut, and New York produced 6,496,000 gallons of the 6,500,500 gallons reported in 1849, of which Massachusetts contributed 3,786,000 gallons, or nearly 60 per cent of the whole.

During all the years of these frauds, reaching up to 1861, the refiners and the distillers were "protected" in the home market by import taxes ranging from 24 per cent (1857) to 12 cents per pound on sugar, and from 30 per cent (1857) to 90 cents per gallon on rum; and it is quite likely that the prices of their sugar and rum, when sold in the United States, were the foreign prices plus the drawback.[1]

[1] Since 1861 it has been the policy of the political party which has enacted every tariff law, except the short-lived Wilson Act, to deny that tariff acts foster frauds; and, as the public attention has been kept directed to exciting sectional questions, schemes to rob the people or their treasury have usually managed to escape exposure.

CHAPTER XVI.

SLAVERY.

The care with which the writers of most of the cheap and attractive school histories which the publishing houses in the Northern cities have been introducing into the schools of the South during the last thirty years, record the importation of African slaves into the Southern Colonies, while omitting their introduction into those of the North, and conceal altogether or misrepresent the essential facts on which alone can be founded a just judgment of the long controversy between the Northern and Southern sections of the Union, which terminated in a war between them, deserves the rebuke which it is proper here to summon the cold and unadorned facts of history to administer.

One of these books (perhaps a fair sample of what Southern children have been studying for a quarter of a century) is called *The Eclectic Primary History of the United States.* Its first reference to slavery is in these words (p. 30): "One day a Dutch vessel visited Jamestown. She had 20 Africans on board, who were sold to the Colonists. In this manner negro slavery was introduced into our country." The second is on page 171 in these words: "You have been told when African slavery was introduced into Virginia. As our country grew and prospered, slavery extended into many of the States. It was legal in all of them that lay south of Mason and Dixon's line, which, you know, marked the boundary between Pennsylvania and Maryland." And the next is in Part IV, which begins thus: "The Southern, or Slave States, believed that the election of a Republican President would endanger States' rights and the existence of negro slavery."

Another one of them published by the Educational Publishing Company, Boston, is called *American History Stories.* It is a more attractive volume than the one above-mentioned; and it can be found in Southern schools.

After utterly ignoring the existence of Indian and negro slavery in the North, and expressing sorrow that slaves in Virginia "did all the work for their masters, and received no pay for it"—the sons and daughters of the slave-holder, of course, growing up in absolute idleness—it says the Georgians introduced slavery into their Colony because they "were not a God-fearing people as were the Puritans and Quakers."

The ignorance of these so-called historians, or their deliberate purpose to prejudice the youth of these States against the Southern people, will appear as we proceed.

In the days when the first British North American Colonies were settled, and long afterwards, the white man entertained no doubt about his right to enslave any race of people whom he regarded as morally and intellectually his inferior; and since in those days every man's station in the world was held to be the one assigned to him by his Creator, at which it would have been impious to complain, nearly two centuries passed by before the slow-growing spirit of justice, equality, and fraternity began, even in a few isolated cases, to embrace the negro among the objects of its sympathies.[1]

At the battle on the Mystic River, in Connecticut, May 20, 1637, between the Pequods and the combined

[1] Senator Charles Sumner of Massachusetts, as will be seen in another chapter, based his denial that slavery ever existed in Massachusetts, "in any just sense," on the absence of any law establishing slavery there; but perhaps he could have proved by similar evidence that slavery never existed in South Carolina, or in any other State. He might have gone further and proved that no man in Massachusetts ever owned a horse.

forces of Massachusetts and Connecticut, aided by some Indians, about two hundred women and children were captured. They were divided between these forces and their Indian allies, and reduced to slavery; and afterwards, since Indians did not make docile slaves, they were shipped to the West Indies and exchanged for "blackamoors" (negroes)—an exchange in which, according to the late Hon. Jeremiah S. Black's understanding of Moore's Notes on the History of Slavery in Massachusetts, the West Indian got cheated.[1]

Six years afterwards (1643) the Colonies of Massachusetts Bay, Plymouth, Connecticut, and New Haven formed a Confederation between themselves, in which they mutually agreed to surrender fugitive slaves on the demand of the owners.

In 1676, after King Philip had been slain, beheaded, and quartered, because he had sought revenge for the indignities heaped upon his brother, Wamsutta, Sachem of his tribe, ending in his death by poison (as Philip believed), Philip's son, a lad nine years old, whose grandfather, Massasoit, had been a life-long friend of the Colonists (when they sorely needed a friend), was shipped to Bermuda, and sold as a slave.[2]

In 1638 the Salem ship "the Desire" (built at Marblehead in 1636) brought into Massachusetts a number of negroes, and found ready sale for them. "This first entrance into the slave-trade," says Moore, "was not a private, individual speculation. It was the enterprise of the authorities of the Colony."[3]

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[1] An imperfect but interesting account of "the most sanguinary atrocities of the whites" during their Indian wars can be found in Irving's *Sketch Book*—"Philip of Pokanoket."

[2] "Two distinguished preachers, Rev. Samuel Arnold of Marshfield, and Rev. John Cotton of Plymouth, were asked to advise what to do with Philip's son. They said 'butcher him.' "—Moore, page 45.

[3] Unless otherwise stated, quotations in this chapter are from Moore.

In 1720 Governor Shute informed the Lords of Trade that there were 2,000 slaves in Massachusetts, including a few Indians. He added that, during the same year, 37 male and 6 female negroes were imported, with the remark, "No great difference for 7 years last past."

"In 1735 there were 2,600 negroes in the Province."

"In 1742 there were 1,514 in Boston alone."

In 1754 there were in Massachusetts 4,489 slaves 16 years old and upwards. In 1764-'5 the number was 5,779. In 1776 there were 5,249; in 1784, 4,377; in 1786, 4,371; and in 1790, 6,001.

And these slaves were treated as cruelly, and sold with as little regard for paternal, maternal, conjugal, or filial love, as they ever were in any other Colony or State.

The New England Weekly Journal, 55th number, dated April 8, 1728, contained two advertisements as follows:

"☞ A very likely negro girl, about 13 or 14 years of age, speaks good English, has been in the country some years, to be sold. Inquire of the printer hereof.

"☞ A very likely negro woman who can do household work, and is fit either for town or country service, about 22 years of age, to be sold. Inquire of the printer hereof."[1]

The Boston Newsletter, August 12 to 19, 1731, contained this:

"Just arrived a choice lot of negro boys and girls."

The New England Weekly Journal, May 1, 1732, contained this:

"A likely negro woman about 19 years and a child of about 6 months of age to be sold together *or apart.*"

And the Boston Gazette and Journal, August 18, 1766, made this announcement:

[1] Alden's Cyclopœdia, Art. Newspaper.

"A likely negro man, taken by execution, and to be sold by public auction * * * at 6 o'clock this afternoon."

This "chattel" slavery was recognized by Chief Justice Parker, in 1816, in *Andover v. Canton*, thus: "The practice was * * * to consider such issue (of slaves) as slaves, and the property of the master of the parents, liable to be sold and transferred like other chattels, and as assets in the hands of executors and administrators."

And even as late as 1793 a slave was sold at public auction in Cambridge, Massachusetts.[1]

Of other cruelties inflicted on their "chattels" the two following quotations from Moore will furnish sufficient proof:

"The law of 1703, chapter 2, was in restraint of the 'manumission, discharge, or setting free' of mulatto or negro slaves. Security was required against the contingency of these persons becoming a charge to the town, and none were to be accounted free for whom security is not given," etc.

Chapter 4 of the same act forbade "Indian, negro, or mulatto servants or slaves to be abroad after 9 o'clock," etc.[2]

[1] See Watson vs. Cambridge, 15 Mass., 286-87.

[2] Moore copies a disgusting story from Josselyn's Account of Two Voyages to New England (published in London, 1664), which begins as follows: "The 2d of October, 1639, about 9 of the clock in the morning Mr. Maverick's negro woman came to my chamber window, and in her own country language and tune sang very loud and shrill, going out to her, she used a great deal of respect toward me, and willingly would have expressed her grief in English; but I apprehended it by her countenance and deportment, whereupon I repaired to my host, to learn of him the cause, and resolved to intreat him in her behalf, for that I understood before, that she had been a queen in her own country, and observed a very humble and dutiful garb used toward her by another negro who was her maid.

"Dr. Belknap says that 'negro children were considered an incumbrance in a family; and, when weaned, were given away like puppies.' They were frequently publicly advertised to be given away," etc.

It would not further the object of this chapter to pursue mere details; the spirit of the times and the moral code of the New Englanders will render them unnecessary. These we can gather from the records presented to us by Moore. "Emanuel Downing," he says on page 9, "a lawyer of the Inner Temple, London, who married Lucy Winthrop, a sister of the elder Winthrop, came over to New England in 1638. * * * In a letter to his brother-in-law, 'probably written in the summer of 1645,' * * * he says:

"'A warr with the Narragansett is verie considerable to this plantation, ffor I doubt whither yt be not synne in vs, having power in our hands, to suffer them to maynteyne the worship of the devill, which their paw wawes often do; 2lie, if upon a Just warre the Lord should deliver them into our hands, we might easily have men, women and children enough to exchange for Moores, which will be more gayneful pilladge for us than we conceive. * * * And I suppose you know verie well how we shall maynteyne 20 Moores cheaper than one English servant.'"

Of the legal status of slavery in Massachusetts, of which Mr. Sumner[1] seems to have been totally ignorant, all doubt is removed by the records which patient research enabled Hildreth and Moore to bring to light. The former, a native of Massachusetts, published in

"Mr. Maverick was desirous to have a breed of negroes, and therefore, etc., etc., etc.

"This she took in high disdain beyond her slavery, and this was the cause of her grief."

[1] See Note T.

1849-'56 a six-volume History of the United States, wherein, on page 200 of Vol. I, he tells us that in 1641 Massachusetts adopted her Fundamentals or Body of Liberties, which recognized and authorized the slavery of "captives taken in just wars and such strangers as willingly sell themselves or are sold unto us." This anticipates "by 20 years," he adds, "anything of the sort to be found in the statutes of Virginia or Maryland."

The latter (Moore, a native of New Hampshire) says on page 18: "Thus stood the statute through the whole Colonial period, and it was never expressly repealed. Based on the Mosaic code, it is an absolute recognition of slavery as a legal status, and of the right, etc. It sanctions the slave-trade, and the perpetual bondage of Indians and negroes, their children and children's children, and entitles Massachusetts to precedence over any of the other Colonies in similar legislation. It anticipates by many years anything of the sort to be found in the statutes of Virginia, or Maryland, or South Carolina."

It seems that slavery was never abolished in Massachusetts by any act of the Legislature. The first article of her Bill of Rights, adopted as a preamble to her Constitution in 1780, declared that "all men are born free and equal;" but the discovery that negroes were "men" was made in after years by her Supreme Judicial Court, and even then none were "men" except those born after 1780. In Bigelow's Digest of the Reported Cases, etc., page 605, this occurs in one of the decisions: "The children of slaves, born after the adoption of the present Constitution, were born free"—which was legislation by the court, since not a single slave was set free by operation of the Constitution, as was proved by the census of 1790.

But the cost of maintaining a negro slave and his un-

fitness for many of the occupations of the people in the rigorous climate of New England proved a barrier to such a general employment of negroes as took place in the South; and the same causes, particularly the first named, operated in the other Northern Colonies with a force diminishing with their latitude. Experience taught the people at an early day that white servants were more profitable.

As might have been expected, therefore, the census-takers in 1790 found only 40,850 slaves in the New England States, New York, New Jersey, and Pennsylvania (the so-called Free States).

The number of slaves in these States was shown at each succeeding census up to 1840 to be as follows:

1800,	35,946
1810,	27,510
1820,	19,108
1830,	3,568
1840,	1,129

In 1840 the numbers still remaining in the then so-called Free States were: 1 in New Hampshire, 5 in Rhode Island, 17 in Connecticut, 4 in New York, 64 in Pennsylvania, 674 in New Jersey, 3 in Ohio, 3 in Indiana, 331 in Illinois, 11 in Wisconsin, and 16 in Iowa.[1]

Although the doctrine that "all men were created equal" began to threaten time-honored class distinctions in the third quarter of the 18th century, and one of the most damning charges against George III in Jefferson's draft of the Declaration of Independence (stricken out by the committee on revision) was that "he had waged cruel war against human nature itself, violating its most sacred rights of life and liberty in the

[1] Slaves were held in Ohio, Indiana, Illinois, Wisconsin, and Iowa under Virginia's deed of cession and France's deed for the Louisiana purchase.—(See Hinsdale's Old Northwest, p. 349.)

persons of a distant people (negroes in Africa) who never offended him," it was many years before any State passed any act to liberate its slaves. It is true that Mr. Sumner in the speech already referred to arrogantly affirmed that "in 1780 * * * Massachusetts, animated by the struggles of the Revolution, and filled by the sentiments of freedom, placed in front of her Bill of Rights the emphatic words that 'all men are born free and equal,' and by this declaration exterminated every vestige of slavery within her own borders"; and it is also true that the Supreme Judicial Court of the State, in *Inhabitants of Winchendon v. the Inhabitants of Hatfield*, (Bigelow's Digest, p. 605) declared that slavery "was tolerated till the ratification of the present Constitution, when it was abolished in this State by virtue of the first article of the Bill of Rights."[1] But it is also true that this first article *did no such thing;* although, as Moore says on page 19, this falsehood "has been persistently asserted and repeated by all sorts of authorities, historical and legal, up to that of the Chief Justice of the Supreme Court of the Commonwealth."[2] "'The Guinea Trade,' as it was called," says Moore, page 65, "continued to flourish under the auspices of Massachusetts merchants down through the entire Colonial period, and long after the boasted Declaration of Rights in 1780 had terminated (?) the legal existence of slavery within the limits of the State."

[1] The first article in Virginia's Bill of Rights, adopted June 12, 1776, is: "That all men are by nature equally free and independent, and have certain inherent rights," etc.

[2] Von Holst, Constitutional History of the United States, Volume I, page 287, says: "In Massachusetts, before the Declaration of Independence, decisions had repeatedly been given by juries which can be justified only by the supposition that slavery had no legal existence in the Colony."

And Professor Von Holst, all through his seven volumes, delights in criticising what he calls Southern "slavocracy."

He then copies a letter from Felt's Salem, Vol. 2, pages 289 and 290, written by a prominent Massachusetts merchant, whose name he suppresses, a paragraph from which is here produced:

"———, November 12, 1785.

"Capt. ———

"Our brig of which you have the command, being cleared at the office, and being in every other respect complete for sea; our orders are, that you embrace the first fair wind and make the best of your way to the coast of Africa, and then invest your cargo (rum) in slaves."

This was five years after "all men" were declared to be "born free and equal," and this merchant, at least, did not include negroes among "men."

But the prospective or actual judicial interpretation of the famous "first article" as liberating all children of slaves at birth, had a marked effect on the increase of the colored population of Massachusetts. The normal increase of that population in the United States from 1880 to 1890 is elsewhere shown to have been 13.5 per cent. Applying this rate to Massachusetts we find that the colored population (6,452) in 1800 fell 616 short of what it should have been (7,323) in 1810; and that the increase from 6,737 in 1810 fell 916 below what it should have been (7,646) in 1820.[1] What became of these 1,532 unfortunate creatures is indicated in the remark of Senator Butler in his debate with Mr. Sumner (in the 33d Congress) that "when slavery was abolished"—up North—"many that had been slaves, and might have been freemen, were sold into bondage."

A prevalent misconception on another point will justify a quotation from Moore. It is "civil rights" or

[1] See Art. Massachusetts—Population—in Alden's Cyclopœdia.

"social equality." He says on page 60: "Free negroes not being allowed to train in the militia, an act passed in 1707, chapter 2, requiring them to do service on the highways and in cleaning the streets, etc., as an equivalent."

And the hypocritical howl that went up in Massachusetts at the expulsion of Samuel Hoar from South Carolina, whither he had been officiously and offensively sent[1] to test the Constitutionality of an act authorizing the imprisonment of free negroes landing in that State from other States (an act for which the provocation was far more aggravating than that which induced Ohio, Indiana, and Illinois to exclude free negroes from their borders), appears in all its odiousness when we read what Moore says on page 282. On the 26th of March, 1788, the Legislature of that State passed an act providing "that no person being an African or negro, other than a subject of the Emperor of Morocco, or a citizen of some one of the United States (to be evidenced by a certificate from the Secretary of the State of which he shall be a citizen), shall tarry within this Commonwealth, for a longer time than two months," under a penalty of being whipped for every failure to leave after being warned by a Justice of the Peace.

Thus the evidence is ample that the enslavement of human beings in the Northeastern section of the Union was as legal and as cruel as in any other section; and the evidence that slavery became less prevalent in the former section for economic reasons alone, is equally satisfactory.

The humane spirit which revolted at the barbarities of the African slave-trade did not manifest itself in Massachusetts before it did in Maryland or South Carolina, as it should have done if there were any ground for the

[1] By the Legislature of Massachusetts in 1844.

lofty tone of her Representatives in later years. This may have been due to the circumstance that much of her shipping was engaged in this "gayneful pilladge."

The statistics presented by Dubois in his Suppression of the Slave Trade, pages 226 et seq., throw a long needed searchlight on her pretensions. They are as follows:

"1783. Maryland prohibited importations.

1783. South Carolina levied 3 and 20 pounds duty on importations.

1784. South Carolina's act levying 3 and 5 pounds duty.

1786. North Carolina levied a prohibitory duty.

1787. South Carolina totally prohibited importations.

1788. New York prohibited the slave trade.

1788. Massachusetts[1] prohibited the slave trade.

1788. Pennsylvania prohibited the slave trade.

1788. Connecticut prohibited the slave trade.

1788. South Carolina prohibited the slave trade till January 1, 1793.

1789. Delaware prohibited the slave trade.

1789. Parker, of Virginia, proposed in Congress $10 a head on importations.[2]

1792. South Carolina prohibited till 1795.

1793. Georgia prohibited importations.

1794. North Carolina prohibited importations.[3]

[1] "The kidnapping of three colored persons at Boston, enticed on board a vessel and carried to the West Indies, where they were sold as slaves, produced a great excitement in Massachusetts, and occasioned" the passage of the act prohibiting the slave trade.—Hildreth, Second Series, Volume I, page 175.

[2] One of the leading opponents of Parker's motion, according to Lives of the Signers, page 235, was Roger Sherman, of Connecticut; and, according to Greeley, I, page 45, Sherman was one of the first to consent to a continuance of the slave trade.

[3] "By land or water."—Haywood's Manual, page 381.

1794. South Carolina extended her act of 1792 to 1797."

Virginia had as far back as 1740 levied a tax of ten per cent on the value of every slave imported, to be paid by the purchaser; and this tax was never reduced.—Historical Collections of Virginia, by Henry Howe, p. 134.

And Georgia placed this provision in her Constitution in 1798:

"There shall be no future importation of slaves into this State, from Africa or any foreign place, after the first day of October next."

So it seems that, whatever the motive was, whether moral, economic, or humane, there is no foundation for the claim that any one State or section was the champion, par excellence, of anti-slavery.

But, if we were to grant all that has been claimed for the famous "first article" in the Constitution of Massachusetts, we could not shut our eyes to the truth that the African slave trade, which we have seen was going on five years after the adoption of her Constitution, was a source of "gayneful pilladge" to her shippers for at least seventy-seven years.

The inability of the States to enforce their laws against the New England slave traders, after they had transferred to the Congress the control of the naval forces of the States, induced South Carolina in 1803 to repeal her law, and wait until 1808 when Congress could suppress the traffic. It was not a creditable spectacle to have the law constantly violated with impunity by "our Eastern brethren," as Mr. Lowndes, of that State, explained in the House of Representatives February 14, 1804.

It would lend interest to the subject if we could examine the records of the numerous trials of captured slavers; but we must be content with a brief summary of the efforts made by the Legislative and Executive branches of the Federal Government.

The act of Congress for suppressing the importation of slaves became effective on January 1, 1808—or, rather, it was intended to be effective on that day; but a threatened penalty of ten thousand dollars and not less than two years imprisonment, together with a forfeiture of the vessel, etc., could not deter "our Eastern brethren" from continuing the traffic.

"Among the commercial abuses," said Mr. Madison in his annual message of December 5, 1810, "still committed under the American flag, it appears that American citizens are instrumental in carrying on a traffic in enslaved Africans." He recommended "further means of suppressing the evil."

In his eighth annual message, December 3, 1816, he said: "The interposition of Congress appears to be required by the violations and evasions which it is suggested are chargeable on unworthy citizens who mingle in the slave trade under foreign flags and with foreign ports, and by collusive importations of slaves into the United States through adjoining ports and Territories" (Florida and Texas). He thereupon advised that a remedy be found and applied; and the attempt was made in the act of April 20, 1818, which imposed heavy penalties on persons who engaged in the slave trade anywhere, and also on any person who should build, equip, etc., or aid and abet the building or equipping of any vessel intended for the slave trade. But the cupidity of the slave traders laughed at the laws; and "some of our public ships," said the message of November 14, 1820,[1] "have been employed on the coast of Africa, where several captures have been made of vessels engaged in that disgraceful traffic."

In his annual message of December 6, 1825, President

[1] The act of May 15, 1820, declared the slave trade to be piracy; but even this did not deter "our Eastern brethren."

Adams informed the Congress that "an occasional cruiser has been sent to range along the African shores most polluted by the traffic of slaves."

In 1828, since it was known that the traffic was still carried on, Congress appropriated $30,000 for its suppression.

Twelve years afterwards (1840) Mr. Van Buren's message informed the Congress that "the Brig Dolphin and the Schooner Grampus had been employed during the last season on the coast of Africa, for the purpose of preventing such portions of that trade as were said to be prosecuted under the American flag," and having returned home at the commencement of the rainy season, "had since been despatched on a similar service."

In Mr. Tyler's message to the special session of Congress June 1, 1841, he advised more stringent laws for the suppression of the slave trade because "there is reason to believe that the traffic is on the increase."

On January 9, 1843, Mr. Tyler's special message informed the Congress that he "could not be ignorant * * * of the well-grounded suspicions which pervaded the country, that some American vessels were engaged in that odious and unlawful traffic."

On June 16, 1860, an act was passed authorizing the President to enter into "contract with any person or persons, society or societies, or body corporate, for a term not exceeding five years, to receive from the United States, through their duly constituted agent or agents upon the coast of Africa, all negroes, mulattoes, or persons of color, delivered from on board vessels seized in the prosecution of the slave trade, etc., and to provide the said negroes, etc., with comfortable clothing, shelter, and provisions for a period not exceeding one year at a price in no case to exceed one hundred dollars for each person so clothed," etc.

The traffic seemed to defy all legislation; it could not be suppressed. "Notorious American citizens" kept it up. On March 20, 1861, the Nightingale of Boston, Francis Bowen, master, with 961 negroes on board and "expecting more," was captured on the coast of Africa.

On May 21 "the American brig Triton" and the American vessel "Falmouth" were on the coast of Africa engaged in the slave trade: and if the officer who captured the Triton had been there "one month earlier" he might have captured "nine slavers," all of which "escaped except the Nightingale." On March 28, 1862, there were two American vessels at Cadiz, the ship Clarissa and brig Falmouth, "both suspected of being in preparation to engage in the slave trade."[1]

Thus seventy-four years after Massachusetts made a spasmodic effort to prevent her "subjects," as her Constitution called them, from engaging in the slave trade, that execrable traffic was still going on under circumstances which forbid the palliating supposition that she did not wink at it.

The profits of this "gayneful pilladge," not including those from sales in foreign countries, could be approximately estimated by a simple calculation, if we had their price-lists.

The colored population of all the States and Territories, including blacks, mulattoes, quadroons, and octoroons, increased from 6,580,793 in 1880 to 7,447,040 in 1890, or 13.51 per cent; and it is not likely that the per cent of increase, during any one decade since 1790, could have been larger under normal conditions. The following table, therefore, constructed from official records (except as to Alabama in the decade closing with 1820, in which her colored population has been esti-

[1] See Naval War Records, Volume I, pages 11, 12, 13, 24, 366, 378.

mated as equal to the whites), can be relied on as revealing the volume of the business.

Table showing the per cent of increase of colored people in the two sections of the Union by decades from 1800 to 1840:

Decades.	Northern States.	Southern States.
1800–1810,	27.19	33.5
1810–1820,	15.4	25.
1820–1830,	15.6	31.7
1830–1840,	21.8	19.

Now remembering that many of these people fled to Canada, and that, after 1816, many of them emigrated to Africa (Liberia) under the auspices of the American Colonization Society, of which Henry Clay, a Southern man, was the first President, and making a reasonable allowance for the increase due to the acquisition of Louisiana and Florida, we are prepared to form some estimate of the stream of wealth which the slave trade caused to flow from the South to the North. Indeed, in spite of all the efforts made to check the traffic by Presidents Tyler, Polk, Taylor, Fillmore, Pierce, and Buchanan, "our Eastern brethren" ran the rate of increase up to 25.12 in the decade closing with 1850 (in which Texas was annexed), and to 23.25 in the decade preceding the war.

Now the reader must not suppose that all this evidence is presented with any purpose of proving that the people of the Northern States were "sinners above all other men"; the object is to enlighten those who, having formed their opinions from reading books written by ignorant or disingenuos authors, cheap newspapers and magazines scattered all over the Union from the cities of the North, and speeches delivered here and there by uninformed or prejudiced orators in and out of the pulpit, have believed that the people of the Southern States were the chief, if not the only, offenders against the laws of humanity.

NOTE T.

Extracts from the debate between Senators Sumner and Butler in June, 1854, beginning on page 1,013 of the Appendix to the Congressional Globe, First Session, Thirty-third Congress:

"Mr. Sumner. * * * But enough for the present. * * * There are, however, yet other things in the assault of the venerable Senator (Butler) which, for the sake of truth, in just defense of Massachusetts, and in honor of freedom, shall not be left unanswered.

"Alluding to those days when Massachusetts was illustrated by Otis, Hancock, and the 'brace of Adamses'; when Faneuil Hall sent forth echoes of liberty which resounded even to South Carolina, and the very stones in the streets of Boston rose in mutiny against tyranny, the Senator with the silver-white locks, in the very ecstacy, broke forth in the ejaculation that Massachusetts was then 'slave-holding,' and he presumed to hail these patriots as representatives of 'hardy, slave-holding Massachusetts.' Sir, I repel the imputation. It is true that Massachusetts was hardy; but she was not, in any just sense, slave-holding. And had she been so, she could not have been 'hardy.' The two characteristics are inconsistent as weakness and strength, as sickness and health—I had almost said, as life and death.

"The Senator opens a page, which I would willingly present. Sir, slavery never flourished in Massachusetts; nor did it ever prevail there at any time, even in early Colonial days, to such a degree as to be a distinctive feature of her powerful civilization. Her few slaves were merely for a term of years, or for life. If, in point of fact, their issue was sometimes held in bondage, it was never by sanction of any statute or law of Colony or Commonwealth. * * * In all her annals no person was ever born a slave on the soil of Massachusetts. This, of itself, is a response to the imputation of the Senator. * * *

"At last, in 1780, * * * Massachusetts, animated by the struggles of the Revolution, and filled by the sentiments of freedom, placed in front of her Bill of Rights the emphatic words that 'all men are born free and equal,' and by this declaration exterminated every vestige of slavery within her borders.

"And let me add that when this Senator (Butler) presumes to say that American Independence was won by the arms and treasure of slave-holding communities, he speaks either in irony or ignorance."

"Mr. Butler. * * * When the Declaration of Independence was made, was not Connecticut a slave-holding State?"

"Mr. Sumner. Not in any just sense."

"Mr. Butler. Sir, you are not the judge of that. Was not New York a slave-holding State?"

"Mr. Sumner. Let the Senator (Seward) from New York answer."

"Mr. Butler. Sir, if he answers, he will answer the truth, and perhaps it might not be exactly agreeable to you. Was not New Jersey a slave-holding State? Was not Rhode Island a slave-holding State?"

"Mr. Seward. It is due to the honorable Senator from South Carolina that I should answer his question in reference to New York, since it has been referred to me. At the time of the Revolution, every sixteenth man in the State of New York was a slave."

* * * * * * *

"Mr. Butler. Was not New Hampshire a slave-holding State? Was not Pennsylvania a slave-holding State? Was not Delaware a slave-holding State? Was not Maryland a slave-holding State? Was not Virginia a slave-holding State? Was not North Carolina a slave-holding State? Was not Georgia a slave-holding State?" * * *

"Mr. Seward. I am requested to make my answer a little more accurate, according to the truth. I understand, that at the time of the Revolution, every twelfth man in New York was a slave."

"Mr. Butler. * * * History can recognize no distinction between them. In the progress of events changes have taken place. * * * These will afford no excuse for denying the irrevocable certainty of the past. They can afford no refuge for historical falsehood such as the gentleman has committed in the fallacy of his sectional vision. I have shown that twelve of the original States were slave-holding communities. Now, sir, I prove that the thirteenth, Massachusetts, was a slave-holding State before, and at the commencement of, the Revolution. * * * As to the character of slavery in that State, that may be somewhat a different thing, which can not contradict the fact stated in the newspapers of the day, that negroes were held, were advertised for sale, with another truth, that many were sent to other slave-holding States in the way of traffic. When slavery was abolished, many that had been slaves and might have been freemen, were sold into bondage."

Replying to what Mr. Butler had said, Mr. Sumner, in the Globe, page 1,555, made a distinction, as follows: "By slave-holding States, of course, I mean States which were peculiarly, distinctively, essentially slave-holding, and not States in which the holding of slaves seems to have been rather the accident of the hour, and in which all the people, or the greater part of the people, were ready to welcome emancipation."

To this Mr. Butler replied: "Mr. President, I think the remarks of the Senator verify exactly what I said, that when he chooses to be rhetorical, it is upon an assumption of facts, upon his own construction, and by an accumulation of adjectives"; and then Mr. Butler brought in Mr. Garnett's pamphlet, showing how pensions had been unfairly divided between the two sections of the Union.

CHAPTER XVII.

SLAVERY AS A MORAL EVIL, AND AS A SECTIONAL ISSUE.

It has been so long asserted, and dinned into the ears of mankind through so many channels, that the people of the New England States were the first to arrive at that high moral plane whereon human slavery is an offense, that it is now almost ineradically stereotyped in the literature of English-speaking peoples; and as nearly eighteen centuries passed by before the student commenced the work of exposing the shams, the frauds, the mendacity, and the tyrannous rule of the ruffians of ancient Rome, so it may be centuries before the pretensions of "our Eastern brethren" are laid bare before the eyes of the world. But justice to all parties concerned demands an attempt at such an exposure, and as we probably have no "dark ages" to go through, it is hoped that some impression may be made on even the present generation.

The white people of the Southern States who were born after there began to be any doubts about the right of one man to own another, inherited African slavery, were accustomed to it from their infancy, and, if, as they grew up, they had any scruples about it, they could devise no practical and satisfactory means of emancipating their slaves. "They had the wolf by the ears," as Mr. Jefferson put it. They were no more willing to enfranchise them than were the people of Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Illinois, Michigan, Iowa, Wisconsin, California, and Oregon, whose State Constitutions denied the ballot to free colored persons (which North Carolina's Constitution did not do until 1835); or the people of Massachusetts, New Hampshire, Vermont, and Rhode Island, who ex-

cluded them by educational or property qualifications, or both. Nor were they willing to turn adrift to shift for themselves such a mass of human beings, untrained to the duties of citizenship, of questionable ability to maintain themselves in the struggle for existence, and likely to become a public charge—one of the reasons, perhaps, why Indiana's Constitution (adopted in 1851) forbade the migration of free negroes into her borders.

The Southern people were not unacquainted with liberated slaves. From moral or other considerations thousands of slave-owners in the South, during and after the Revolution, set their slaves free, some transporting them to the Northwest, with means to support themselves for a year; but in most cases the owner was unable to do this, and the ex-slaves, remaining in their old neighborhood, added nothing to its material advancement or its moral growth; on the contrary they were a clog on both. In 1790 there were 32,635 free persons of color in the so-called Slave States: in 1800 61,241; in 1810 108,265; in 1820 135,434, etc., etc. In 1840 the numbers in Virginia and North Carolina, respectively, were 49,842 and 22,732.

The unsatisfactory results of freeing slaves in North Carolina, after the Revolution commenced, induced the Legislature in 1777 to enact that "no negro or mulatto slave shall hereafter be set free, except for meritorious services."

In North Carolina, to the other objections to the liberation of slaves was added the Constitutional provision, adopted in 1776 and never altered until 1835, that "all freemen of the age of twenty-one years * * * shall be entitled to vote," etc. But, perhaps, the strongest objection is indicated in the act passed by the North Carolina Legislature in 1801 requiring persons who liberated slaves "to enter into bond in the sum of one hundred

pounds for each slave so liberated * * * that such slave or negro shall not become chargeable on the parish or county"; and authorizing the wardens of the poor to arrest, if necessary, and place under bonds for a similar purpose any slave-holder who was about to move away and leave his slaves behind for the county to support.

This experience was not confined to the South. In 1849 Cooper said in the Spy: "The old family servant, who, born and reared in the dwelling of his master, identified himself with the welfare of those whom it was his lot to serve, is giving place in every direction to that vagrant class which has sprung up within the last thirty years, and whose members roam through the country unfettered by principles, and uninfluenced by attachments." And in 1860 Thomas Prentice Kettell, "late editor of the Democratic Review," said in a volume entitled Southern Wealth and Northern Progress: "Those (fugitive slaves) only who have a good deal of white blood have sufficient energy to migrate; the true black, never. Enough of the black nature remains in the runaway, however, to unfit him for any useful purpose. This fact is within the knowledge of every citizen of the United States. In all the Northern States there are hanging on the outskirts of towns and villages pauper blacks, the miserable remnant of former well-fed slaves. These are always a nuisance, and so well known is it that even Ohio, * * * among its first laws enacted one excluding blacks from the State on any pretence. The white person who brought in a free negro must give security in $500 for the behavior of the black, and that he should not come upon the town. Illinois and other States enacted the same law, and very justly. The free black, without referring to the fact that he is here through no fault of his own,

will not contribute his share to the exigencies of society, and it is too much to impose his support upon the labor of industrious whites. He claims to be free, but lives only to prey upon society."

As to genuine regard for the colored people and their equal rights as human beings, there seems to have been as much in the South as in the North;[1] and their status as "chattels" was no more offensive to the sensibilities of the white man in one section than in the other. The treaty of peace of 1783 containing the stipulation that "His Britannic Majesty shall * * * without carrying away any negroes or other property of the American inhabitants, withdraw all his armies," etc., etc., was negotiated by John Adams, John Jay, and Benjamin Franklin—all Northern men. Four years afterwards, the final draft of a Constitution, containing the provision that the Congress should neither prohibit the importation of slaves nor levy any tax on them, was reported by a committee consisting of two Southern and three Northern members, namely, Rutledge of South Carolina, Randolph of Virginia, Gorham of Massachusetts, Ellsworth of Connecticut, and Wilson of Pennsylvania. Twenty years afterwards (1807), the act

[1] Of the greater kindness and indulgence, in fact, of the Southern man as a slave-holder, the testimony of the negro himself was convincing enough. The Northern man who came to the South and became a slave-holder was notoriously a more exacting slave driver than the Southerner was; and whenever it was suspected by the slaves that "young Missis" intended to marry a "Yankee," there was quite a commotion among them, and opposition to the match was loud and vigorous. Mrs. Stowe emphasized this distinction between the two classes of slave-holders; her most brutal of all human monsters with white skins—Legree—was a New England Yankee. And in her appeal to the men and women of the North she says: "If the mothers of the free States had all felt as they should, in times past, the sons of the free States would not have been the holders, and, proverbially, the hardest masters of slaves."

to prohibit the importation of African slaves was passed in the House of Representatives by 113 yeas to 5 nays, one of the nays being from Vermont, one from New Hampshire, two from Virginia, and one from South Carolina. In this same year (1807) another question was disposed of in the Congress which served the double purpose of removing any suspicion of sectional difference in those days as to the morality of African slavery, and of correctly defining the "extension of slavery," which in after years became such a powerful weapon in the hands of dishonest agitators and ignorant fanatics, who were banded together for the destruction of that "domestic tranquillity," the insuring of which was one of the indispensable conditions on which the original thirteen States agreed to form a Union.

On July 13th of that year the Legislative Council and House of Representatives of Indiana Territory (embracing the present States of Indiana and Illinois) adopted by unanimous votes and sent to Congress a petition, asking it to suspend for ten years the 6th Article of compact in the Ordinance[1] for the government of the territory northwest of the Ohio; and permit the introduction of African slaves into the Territory.[2]

This petition, transmitted to the Congress by Gov. William H. Harrison, was inspired by the wish of the people in the western part of the Territory to divert to their own borders the stream of immigration then pouring from the South into Missouri ("Upper Louisiana"), as is shown by a petition from 354 citizens of Randolph and St. Clair counties) now in southwest Illinois, bordering on the Mississippi River, sent to the Congress in

[1] This prohibition of slavery in the Northwest Territory was voted for in the Congress of the Confederation (1787) by every delegate from the Southern States.

[2] State Papers, First Session, Tenth Congress, Volume I.

December, 1805. They prayed that the Congress would divide the Indiana Territory, and erect a separate Territorial government, and consent to the introduction of slaves into it, either unconditionally or under such restrictions, etc.; and among the reasons given was that "the rage for emigration to Upper Louisiana would not only in a great measure cease, but have a tendency to enhance the value of the public lands on the east side of the Mississippi, render their sale rapid, and by an increase of its population place in a flourishing situation the country, which," etc.[1]

The report of the committee to whom was referred the petition of the Territorial Legislature, submitted to the Senate by Senator Jesse Franklin of North Carolina, was, "That it is not expedient at this time to suspend the 6th Article," etc.[2] There is not a hint in any of the proceedings that there was any moral or sectional question involved in the "extension of slavery." "The abstract question of liberty or slavery," said the petition of the Legislature, "is not considered as involved in a suspension of the said Article, inasmuch as the number of slaves in the United States would not be augmented by the measure," etc.; but, on the contrary, the negro would exchange "a situation which admits not the most distant prospect of emancipation for one which presents no considerable obstacles to his wishes."

As has been said, the advocates of the doctrine that "all men were created equal," did not, with rare exceptions, include the negro among "men". They

[1] State Papers, First Session, Ninth Congress, Volume II.

[2] This movement began in 1802. A delegate convention called and presided over by Governor Harrison, sent a memorial to the House of Representatives; and John Randolph, chairman of a special committee to which the matter was referred, reported against suspending the anti-slavery article (March, 1803).—Hinsdale, 352.

framed all the early Constitutions with clauses discriminating against him, or they passed laws imposing either direct or indirect disabilities on him; and the emancipated negro's social status was—and is now—about the same in all the States. But the number of persons who believed that some method of emancipation ought to have been adopted, was considerable in all the States; and in this number were included many of the leaders in church and state. In proof of this the figures already given will suffice for the so-called Slave States. The normal rate of increase of the negro race, per decade, has been shown to be 13.51 per cent; whereas the rate of increase of free blacks in the Southern States was (from 32,635 in 1790 to 61,241 in 1800) more than 87 per cent in the first census decade, (from 61,241 in 1800 to 108,265 in 1810) more than 76 per cent in the second decade, and (from 108,265 in 1810 to 135,434 in 1820) more than 25 per cent in the third decade.

Whatever other causes may have contributed to this reduction of the rate, its date points to a new danger whose portentous shadow was then begining to fall on the South—the determination of a powerful party in the Northern States to restrict slavery to the States where it promised to remain permanent, to prevent the admission into the Union of any more States whose interests would be identical with those of the Southern States, and to insure to the Northern States the unrestricted control of the common government of the States.[1]

This determination, which had its beginning in the

[1] These agitators, to conceal their real object, put on the garb of patriotism, and pretended that the migration of Southern men with their slaves into the common territory of the States would endanger the Union. And this danger to the Union was many times magnified when Mrs. Stowe spread the slaves all over the country, from the Mississippi to the Pacific, thus diluting the slaves from 45 to 15 per ten square miles. "If," said she (Uncle Tom's Cabin, p. 74),

struggles over the assumption of State debts and the granting of bounties to certain classes in the Northeastern States, manifested itself in 1820 as a danger to the perpetuity of the Union. In that year the famous Missouri question arose in Congress, which was settled by the so-called Missouri Compromise. This was an unwise surrender of the South to the demands of the North; and it fell on the ear of Thomas Jefferson, then seventy-seven years of age, as "a firebell in the night." He saw in it the end of the Union of the Constitution.

The leaders in this opposition to the "extension of slavery" *were not abolitionists.* They belonged to the most intelligent class of people in the New England and Middle States; and they would have scouted a proposition

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"all the broad land between the Mississippi and the Pacific becomes one great market for bodies and souls, and human property retains the locomotive tendencies of this nineteenth century, the trader and catcher may yet be among our aristocracy"—a probability which had long before become a reality in Mrs. Stowe's section of the Union through the gains of a business in which the trader and catcher were far more brutal than Haley, Loker, and Marks.

What their real object was is candidly acknowledged by Montgomery. He says on page 224 of his American History:

"The great majority of the Northern people, believing slavery to be an evil, had therefore, two chief reasons for opposing its establishment in the new territory west of the Mississippi: (1) They thought it would be a serious injury to that part of the country" (though he does not make it plain how such a supposed injury to that part of the country would affect the people of the North); "(2) They objected to it because, if the new territory should be admitted as slave States the South would thereby gain such a great number of Representatives in Congress that it would have a large majority. That section could then, by its votes, strengthen and extend slavery" (that is, spread it out and so dilute it that it would cease to be an influential factor either in the South or the West), "and at the same time make laws giving it power to import all kinds of manufactured goods free"—that is to say, free themselves from their vassalage to the "protected" and bounty-fed classes in the North.

to interfere with slavery in the Southern States.[1] Indeed at the time of the Missouri Compromise the abolitionists in the North were a small and discredited faction. Four years afterwards (1824) William Lloyd Garrison was writing articles for the Salem (Mass.) Gazette, "striving," says Alden's Cyclopædia, "to remove the almost universal apathy on the subject of slavery." Fourteen years afterwards the house of Lewis Tappan, a prominent abolitionist in New York city, was attacked by a mob, and its contents destroyed. Fifteen years afterwards (1835) Garrison was dragged through the streets of Boston by a mob of "gentlemen of property

[1] Montgomery says (page 197) that the invention of the cotton gin put a stop to the discussion of slavery; "for now the Southern planters and the Northern manufacturers of cotton both found it to their interest to keep the negro in bondage, since by his labor they were rapidly growing rich." And this is the reason given by Northern writers and politicians (even by Mr. Webster who, in his speech in the Senate, March 7, 1850, adopted this "cotton-gin" theory), why a change of sentiment took place in the South in regard to the merits of the slavery question. But there is very much of ignorance underlying the theory. The discussion of slavery was hushed in States which produced no cotton, after the Southern people discovered what was the real purpose of the "free-soilers" and the abolitionists. According to the Census of 1850 cotton was not produced in Maryland, Virginia, or Missouri; and it cut no figure in the productions of Kentucky (606 bales). Indeed, it is well known to everybody who does not confine "the South" to a narrow strip of seacoast running from the mouth of the Cape Fear River to the mouth of the Appalachicola, that the production of cotton extended into North Carolina, Tennessee, and Arkansas by very slow paces, and that long before it became an important crop the agitation of the slavery question had ceased.

In support of this "cotton-gin" theory Mr. Webster, in the speech referred to, made this astounding assertion:

"In 1802, in pursuit of the idea of opening a new cotton region, the United States obtained a cession from Georgia of the whole of her western territory, now embracing the rich and growing States of Alabama and Mississippi." As if the cession of these lands would change the soil or climate!

and respectability," (quotation marks Alden's)[1] And in 1837 Rev. Elijah P. Lovejoy, Presbyterian minister, was murdered for his abolition doctrines by a mob in Alton, Illinois. The state of public sentiment in New England, and the estimation in which the abolitionists were held "by gentlemen of property and respectability," may be gathered from a sketch of the life of Wendell Phillips in Alden's Cyclopædia. It says: "Admitted to the bar in 1834—when he was twenty-three years of age—he witnessed * * * the dragging of William Lloyd Garrison through the streets by a mob of 'gentlemen of property and respectability.' From that day he avowed the anti-slavery sentiments.* * * He sacrificed for a despised cause all the advantages of his high social position, fine education * * *; and in 1839 relinquished the profession of the law because he would not act under an attorney's oath to support the Constitution of the United States with its guaranties of slavery. His first remarkable speech was in Faneuil Hall, December 8, at a meeting promoted by Dr. William E. Channing, to denounce the murder of the Rev. Elijah P. Lovejoy * * * Attorney-General James T. Austin opposed the resolutions, comparing the pro-slavery mob to Revolutionary patriots. * * * In 1843'4 he (Phillips) was prominent in denouncing the compromises of the United States Constitution" (declaring it to be "a covenant with death and an agreement with hell"), "and then, and far into the 'fifties,' showing serene courage in speaking boldly in the face of threatened attacks of mobs," etc.

This man and his sympathizers were avowed advocates of a dissolution of the Union, in order to free their

[1]The Legislature of Georgia offered a reward of $5,000 for the arrest and conviction, according to the laws of that State, of William Lloyd Garrison, just before he was mobbed in Boston.

consciences from a sort of vicarious remorse for the sin of slavery in the South.[1]

But a dissolution of the Union was far from the aims of the "free soil" agitators. A dissolution would deprive them of all the advantages of the sectional supremacy which they saw in their reach. Nor were they less strenuous in their opposition to the abolition of slavery for the reason given by Montgomery, and for another reason which can be found in a speech delivered in the House of Representatives, March 31, 1897, by the Hon. Joseph H. Walker, of Massachusetts. He criticised Southern Statesmen for their free-trade opinions, and, if his language is not misunderstood, he was following the late Mr. Blaine in attempting to brand as three cognate evils slavery, free-trade, and secession. A portion of his text was a speech delivered in the House of Representatives in 1832 by the Hon. George McDuffie, of South Carolina. Under the caption: "Protection demanded to give us the control of the home market," he says: "But prosperity did come to the North, and Mr. McDuffie, feeling that a portion of the profits of the unpaid (slave) labor of the South was shared by the North through the system of protection, was determined * * to deprive the North of its prosperity, that the South

[1] In Eli Thayer's Kansas Crusade (1889), page 108, he says: "In the Liberator of July 13, 1855, there is the following record:

" 'Thomas Wentworth Higginson was the next speaker. His declaration of his belief in the certainty of the dissolution of these States, and of his own readiness for that event, met with the general and evidently carefully considered assent of the audience.' "

And this Mr. Higginson, dear reader, was Colonel of a regiment of colored troops raised in South Carolina; was wounded at Wiltown Bluff, S. C., in 1863; and is now beyond question receiving a liberal pension for his services in preventing a "dissolution of these States."

might reach the whole of what they felt to be their every advantage from its unpaid labor conditions."[1]

No; these "gentlemen of property and respectability" not only felt no sympathy for the abolitionists; but, on the contrary, they preferred that slavery in the South should be preserved, their only ground of complaint against the Southerners being that they were unwilling to permit a portion of the profits of their slave labor to be sent by Federal law to make the North prosperous. Even as late as 1860 they declared in their platform that "the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depends."

The act of Parliament passed August 28, 1833, providing for the emancipation of slaves throughout the British dominions, and appropriating $100,000,000 to indemnify the slave-owners, gave new life to the little band of fanatics in the Northern States. Garrison, Phillips, Arthur Tappan, and Lewis Tappan redoubled their efforts to arouse public sentiment in favor of the abolition of slavery, to organize societies in all the States, and to foment that zeal for reform which, as usual, became the more active the farther it was from the evil to be reformed and the more dense was the ignorance of the obstacles to be removed. They agitated, they published circulars and addresses, they started a "reform press," and they sent lecturers over the country to awaken an interest in their cause. They did more; they sent insulting circulars to Southern gentlemen, and incendiary appeals to colored persons who could read, their

[1] Page 18 of a pamphlet copy, for which this writer is indebted to the courtesy of Mr. Walker.

names being furnished to the agitators, it was supposed, by Yankee peddlers or other emissaries.[1]

There was much indignation in the South; the gentleman who paid 25 cents postage (the insolent fellows never prepaid the postage) on a package, and found on opening it that it was a bundle of insulting circulars, was in no amicable frame of mind toward the agitators; and, since about that time excitement was running high because of acts of Congress designed to confer upon the North a share of the profits of "the unpaid labor of the South," his sense of wrong was doubly inflamed. As a result, too, of the slavery agitation, real or threatened servile insurrections threw almost every neighborhood in the South into a fever of excitement. In South-

[1] In his seventh annual message, December 2, 1835, President Andrew Jackson referred to these circulars, etc., as follows: "I must also invite your attention to the painful excitement produced in the South, by attempts to circulate, through the mails, inflammatory appeals addressed to the passions of the slaves, in prints, and in various sorts of publications, calculated to stimulate them to insurrection, and to produce all the horrors of a servile war. * * *

"In leaving the care of other branches of this interesting subject to the State authorities, to whom they properly belong, it is nevertheless proper for Congress to take such measures as will prevent the Post-office Department, which was designed to foster an amicable intercourse and correspondence between all the members of the Confederacy, from being used as an instrument of an opposite character. * * *

"I would, therefore, * * * respectfully suggest the propriety of passing such a law as will prohibit, under severe penalties, the circulation in the Southern States, through the mail, of incendiary publications," etc.

But nothing was done. The report of the committee to whom the matter was referred, submitted to the Senate by Mr. Calhoun, February 4, 1836, said: * * * "The question, then, is, Has Congress such a right?—a question of vital importance to the slave-holding States.

"After examining this question with due deliberation, in all its bearings, the committee are of opinion * * * that Congress has not the right," etc.

ampton County, Virginia, a band of slaves under the leadership of Nat Turner murdered in cold blood fifty-five persons, beginning their operations on Sunday, August 21, 1831. Many arrests were made all over the South, many negroes, some of them possibly innocent, were tried and executed. Six were hung in Wilmington, N. C.

The dangers to the Southern people revealed by this and other results of the machinations of the abolitionists of New England, aggravated by increasing activity on their part, not only silenced the sincere opponents of slavery in the South but led to precautionary measures which were regarded by many as too severe, inasmuch as they diminished the privileges of the well-disposed as well as the vicious. An amendment, for example, was added to the Constitution of North Carolina in 1835 disfranchising free persons of color; the Legislature passed an act making it a misdemeanor to teach a slave to read and write (except figures); and other disabilities were imposed on all colored persons.

It strikes us of to-day as a remarkable suppression of sentiment and conviction that one of the members of the Convention which amended the Constitution of North Carolina—the late distinguished William Gaston—had given utterance to the following before the literary societies of the University of North Carolina on June 20, 1832: "On you, too, will devolve the duty which has been too long neglected, but which can not with impunity be neglected much longer, of providing for the mitigation, and (is it too much to hope for North Carolina?) for the ultimate extirpation of the worst evil that afflicts the Southern part of our Confederacy. Full well do you know to what I refer, for on this subject there is, with all of us, a morbid sensitiveness which gives warning of even an approach to it. Disguise the

truth as we may and throw the blame where we will, it is slavery, which, etc. How this evil is to be encountered, how subdued, is indeed a difficult and delicate inquiry, which this is not the time to examine, nor the occasion to discuss. I felt, however, that I could not discharge my duty without referring to this subject, as one which ought to engage the prudence, moderation, and firmness of those who, sooner or later, must act decisively upon it."

But even Gaston's voice was hushed in the presence of the dangers which thickened as the intemperate zeal of the New England agitators found more and more invigorating nourishment in the alarm they excited in the South.[1]

In the course of time the abolition rabble suspended their efforts for the immediate emancipation of the slaves in the South, and united with the "free-soilers" in the work of "multiplying, developing, and strengthening the North," with the ultimate purpose of driving the Southern States out of the Union, or of trampling on the Constitution and liberating the slaves in the South by fire and sword. This fusion was the death knell of the Union of the Constitution.

Then "the extension of slavery" became in the minds of the ignorant a multiplying of the number of slaves; and the fanatics were willing to take Beecher's advice and start to Kansas with "the Bible and Sharpe's rifles."

Then, too, the "campaign liar"—it was campaign every day in the year—became abundant; and the contest between those, on the one hand, who insisted on a strict observance of the conditions on which the Union was formed, and those, on the other hand, who held that our Federal was a National Government, with noth-

[1] See Note U.

ing to guide it except its own discretion, was now represented to Christendom as a contest between slavery and anti-slavery. Every strict constructionist was contemptuously thrust into the "pro-slavery" party, including even Thomas Jefferson, whose election to the Presidency in 1801 began to be spoken of as the "advent of the slave power."[1] And such was the success crowning their labors that by 1860 they had made themselves respectable in some States in the North, and in Massachusetts, as events proved, they constituted a majority of the people; and the uninformed were, in the New England States at least, yielding to the preaching of the fierce fanatics, and accepting their assertions that the struggle for sectional control of the Federal Government was nothing less than an "irrepressible conflict" between liberty and slavery—between the "great moral ideas"

[1] Everybody who reads knows that Mr. Jefferson was opposed to slavery. But this "slave power" fiction can be found in any modern sketch of the life of John Adams as his excuse for refusing to extend to Mr. Jefferson the courtesy supposed to be due from a retiring President to his successor.

Alden's Cyclopædia (Art. John Adams) says "The slave power was also beginning to be a factor in domestic politics, under the leadership of Jefferson, and so, on the election of his rival to the Presidential chair, Adams vacated the office without even waiting to see his successor take his seat." And yet this same Cyclopœdia (Art. Massachusetts) says that the nineteen electoral votes of Massachusetts in 1804 were cast for Mr. Jefferson.

This "slave power" falsehood figures also in the Encyclopædia Britannica, Ninth Edition, with American Revisions and Additions, Volume I, page 142. Accounting for the defeat of Mr. Adams, it says: "Owing to this division of his own friends, rather than to a want of public confidence, at the conclusion of the four years, etc., Mr. Adams was not reelected. Perhaps this was in some measure owing to the preponderance of the slave States, in which Mr. Jefferson, his rival, and a proprietor of slaves, had a fellow-feeling among the chief of the people."

of the North and one of the "twin relics of barbarism" in the South.[1] In the newspapers, in the magazines, in the stump speeches, and in the sermons and lectures, every phase of slavery was discolored; the Southern slave-owner was represented to the ignorant as a monster; and the humanity which the most sordid self-interest would dictate was denied to him.[2] But perhaps the most effective appeal to the laboring class was the picture of the slave-holder as an idle aristocrat who reveled in wealth at the expense of his "unpaid" labor; and whose idleness gave him opportunities of devising schemes to enable the "slave power" to inflict untold imaginary evils on the North.

The charge against the Southern man which more effectually than any other wrought on the sensibilities of the humane, was that his laborers received no "wages"; that they worked from Monday morning till

[1] These "great moral ideas" were gradually embodied in the public mind into a "higher law" than the Constitution, that instrument and its supporters falling into discredit. That most powerful of all the arguments of the abolitionists (Uncle Tom's Cabin), whose dramatic interest caused it to be translated into more languages than any other work written in the English language, sneered at the Constitution in this wise: "So spoke this poor, heathenish Kentuckian, who had not been instructed in his constitutional relations, and consequently was betrayed into acting in a sort of Christianized manner, which, if he had been better situated and more enlightened, he would not have been left to do."—(P. 64).

[2] It was the insolent abuse of Senator Butler (in his absence) by Senator Charles Sumner, of Massachusetts, delivered from the high perch of his lofty ignorance of the history of his own State, which caused Representative Brooks, of South Carolina (a relative of Butler), to make what Northern writers call a "murderous assault" on Mr. Sumner.

Mr. Sumner pretended to be laid up for three years, traveled over Europe exhibiting his sores, posing as a martyr, and denouncing the "barbarism of slavery."

Saturday night with scant food and no wages. And this falsehood became imbedded among the foundations on which so-called "American History" has been built up. The truth, however, is that the slave was cared for from infancy to old age, sick or well, and enjoyed more of the necessaries and comforts of life than, with exceedingly rare exceptions, he has enjoyed since 1865; and taking into account the care of his mother, of him as an infant, as a child, and as an old and helpless man (including losses by death), it is quite likely that the "wages" paid by his owner were equal to the wages received by laborers of like skill in the Northern States, while his hours of labor were shorter. On both of these points the testimony of the New York World is worth recording. Referring to the strike of the garment-makers in New York in the first half of the year 1897, it said: "The negro slave was at least well fed, well housed, well clothed, and not overworked. There was nowhere in negro slavery such cruelty, such want or squalid and hopeless poverty as that which an inexorable 'economic law' imposes upon the journeymen tailors who are just now striking for the right to keep soul and body together. These people work more hours in the day than any man or animal can endure."[1]

As to houses, the Springfield (Mass.) Republican, quoted in Public Opinion, December 27, 1894, stated that 1,333,000 people in New York City lived in 39,138 tenement houses, a fraction over 34 persons to the house—a "tenement house being defined by law," says Alden's Cyclopædia, "as a house occupied by three or more families living independently * * * or by more than two families on a floor," etc. "The Health Department," says this Cyclopædia, "found five families in a

[1] From Wilmington (N. C.) Messenger of June 6, 1897.

room 12 by 12 feet square; another family paying $8.50 per month for a room 7 by 7 feet on a top floor." And, yet, "in 1880," says the same authority, "the average number of persons to a dwelling was about half that in Brooklyn, Boston and London."

On the general subject of the comparative conditions of the "unpaid" laborer of the ante-bellum South and the wage-earner of the North, let us hear what was said by the Journal of the Knights of Labor, copied in Public Opinion, February 28, 1895:

"LAND OF THE SLAVE.

"The Republic is a delusion, freedom is a dream, and the song of liberty is a funeral dirge. * * * The last hope of the poor is being squeezed out. Autocrats rule, rob, and revel. Labor is hampered, hungry, and haggard. All the bullets, bayonets, and bludgeons of the country are centralized around stolen dollars. * * * Sixty million voices demand justice for overworked and underpaid labor," etc.

Such a wail never went up from the "chattels" of the South; and yet the people who by misgovernment have filled the land with tramps (a class of unfortunates never heard of till twelve years after the Government fell exclusively into the hands of "the North"),[1] and erected a virtual plutocratic tyranny over these once free and co-equal sovereign States, are demanding the admiration of all lovers of freedom because they made a freeman of the negro in a land where he is denied respectable employment except from the Southern white man, and in which the "humanitarians" refuse to give him control of even a fourth-class post-office anywhere else than in the South!

[1] See Note V.

NOTE U.

In Virginia the anti-slavery sentiment, which was perhaps more demonstrative than in North Carolina, was silenced by the same causes. Nat Turner's insurrection produced a profound impression, and possible dangers it foreshadowed excited the emancipationists to renewed efforts. "Men began to think and reason about the evils and insecurity of slavery; the subject of emancipation was discussed both publicly and privately, and was prominently introduced into the popular branch of the Legislature at the ensuing session of 1831–'32. * * * The debate which sprang up, upon the abstract proposition declaring it expedient to abolish slavery, was characterized by all the powers of argument and all the graces of eloquence. * * * After an animated contest, the question was settled by a kind of compromise, in which the evils of slavery were distinctly recognized, but that views of expediency required that further action on the subject should be postponed. That a question so vitally important would have been renewed with more success at an earlier subsequent period, seems more than probable, if the current opinions of the day can be relied on; but there were obvious causes in operation which paralyzed the friends of abolition, and have had the effect of silencing all agitation on the subject. The abolitionists in the Northern and Eastern States, gradually increasing their strength as a party, became louder in their denunciations of slavery, and more and more reckless in the means adopted for assailing the Constitutional rights of the South. The open and avowed security given to fugitive slaves, not only by the efforts of private societies, but by public official acts in some of the free States, together with the constant circulation of incendiary tracts, calculated to endanger the safety of slave-holding communities, have awakened a spirit of proud and determined resistance; and now it is almost impossible to tell when the passions shall have sufficiently cooled for a calm consideration of the subject."[1]

NOTE V.

In pursuance of the policy to "multiply, develop, and strengthen the North," the Homestead Act of May 20, 1862, was passed, offering extraordinary inducements to foreigners to flock to the shores of the Northern States; and, as if this were not enough, an act was passed on July 4, 1864, providing that foreigners might enter into contracts for the payment of their passage money out of their earnings, etc., after arrival, thus establishing the "contract labor" system, which in after years "came home to roost."

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[1]Historical Collections of Virginia by Henry Howe, published in 1845.

In addition to these public acts, agents were employed to bring over foreigners to fill up the ranks of the armies, to swell the volume of business for the steamship lines and the railroads, and to settle on the lands which had been given to the Pacific railroads. [1]

To all these forces must be added the demand for labor to fill army contracts at "American wages."

The result was that by 1865 the cities, the towns, the thoroughfares, and the armies had drawn from the old world a considerable fraction of its enterprising poor people; and the stream continued to flow.

But after a while the war ended; army contracts were no more; the troops were gradually disbanded as they ceased to be needed to keep the "rebels" in due subjecion, and to support the military despotisms set up under the "reconstruction measures"; and thousands of natives and foreigners found themselves without employment.

Then, for the first time in these States, the tramp made his appearance.

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[1] The building of the Union Pacific Railroad, which was completed May 10, 1869, was accomplished mainly by Chinese laborers, the demand for them running the number of immigrants from 3,867 in 1867 to 10,684 in 1868, and 14,902 in 1869. In well-informed circles it is believed that, without this cheap labor, the road could not have been built.

CHAPTER XVIII.

"THE SLAVE POWER."

It would not be easy to find in the history of contests between nations or factions of men any epithet more inexcusable, or around which more misrepresentations have clustered, than "the slave power." It has disfigured the literature of the Northern States; it has served up there as the most effective weapon to silence any man who pleaded for justice to the South; and during the last thirty-two years it has often dared to show its hideous and malignant head in the South.

Let us review the so-called historical evidence which is supposed to establish the charge involved in this phrase.

1. The South, by threats of refusing to go into the Union under the Constitution, compelled the North to consent to a continuance of the African slave trade till 1808.

It is quite true that the members of the Convention from Georgia and South Carolina made some such threat; but those two States were not "the South." And it is also true that the New England members, as is elsewhere fully explained, readily consented to the demands of those two States as an equivalent for the privilege granted to them to monopolize the carrying trade. This "bargain" was due to that spirit of concession manifested by Rufus King, a new Englander, on a different subject.[1] He "had always expected that, as the Southern States are the richest, they would not league themselves with the Northern, unless some respect were paid to their superior wealth. If the latter expect those preferential distinctions in commerce, and other advantages which

[1] Elliot's Debates, Volume V, page 290.

they will derive from the connection, they must not expect to receive them without allowing some advantages in return."

2. By threats of some sort the South drove the North to yield to the demand that "three-fifths" of the slaves should be counted in ascertaining the representative population of the States, so as to give the South a greater relative power in the administration of the Government.

This charge is fully met by the records of the Congress of the Confederation and of the Convention of 1787. They prove that it is a child of ignorance or malice.

Under the Articles of Confederation the Congress (wherein each State cast one vote) possessed no power to levy taxes on the people, but each State was bound to supply the treasury by taxes collected in its own borders according to the number of acres of land granted to or surveyed for any person, etc. But for some reason this basis of taxation was not satisfactory; and on April 18, 1783, some amendments to the Articles were proposed to the States, one of which was that the sum to be furnished by each State should be "in proportion to the whole number of white and other free citizens and inhabitants, of every age, sex and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes,"[1] etc.

In the adjustment of this ratio there was much difference of views. The purpose was to ascertain the wealth-producing power of each State. And it was agreed that a slave was not equal to a white man in this respect. The debate (Elliot's Debates, Vol. 5, p. 79) was interest-

[1] Elliot's Debates, Volume I, page 94.

ing, as showing that Northern men wished to include nearly all the slaves. A committee which had had the subject under consideration reported "that two blacks be rated as one freeman."

Mr. Wolcott, of Connecticut, was for rating them as "four to three."

Mr. Carroll, of Maryland, was for rating them as "four to one."

Mr. Williamson, of North Carolina, said "he was principled against slavery; and that he thought slaves an encumbrance to society, instead of increasing its ability to pay taxes."

Mr. Higginson, of Massachusetts, was in favor of "four to three."

Mr. Rutledge, of South Carolina, said, "for the sake of the object, he would agree to rate slaves as two to one, but he sincerely thought three to one would be a juster proportion."

Mr. Holten, of Massachusetts, was in favor of "four to one."

Mr. Osgood, of Massachusetts, was for "four to three."

Mr. Lee, of Virginia, "thought two slaves were not equal to one white man."

Thus it is seen that three-fifths was a larger ratio than the Southern Members desired.[1]

The proposed amendment of the Articles of Confederation was ratified by eleven States,[2] and the public mind acquiesced in the judgment of the Congress that, in the production of wealth, five slaves were equal to three white men.

Hence the Convention of 1787, when it came to imbed in the Constitution the doctrine that taxation and rep-

[1] See Note W.

[2] Delaware and South Carolina refused to ratify.

resentation ought to go together, provided that "representatives and direct taxes shall be apportioned among the several States" according to the basis already virtually agreed to.

The debate on fixing a basis of representation was as interesting as that on the basis of direct taxes.

"Mr. Sherman," of Connecticut, "proposed" (Elliot's Debates, Vol. 5, p. 178) "that the proportion of suffrage in the first branch (House of Representatives) should be according to the respective numbers of free inhabitants.[1] * * *

"Mr. Rutledge proposed that the proportion of suffrage in the first branch should be according to the quotas of contribution. The justice of this, he said, could not be contested.

"Mr. Butler, of South Carolina, urged the same idea; adding that money was power; and that the States ought to have weight in the Government in proportion to their wealth.

"Mr. King, of Massachusetts, and Mr. Wilson, of Pennsylvania, in order to bring the question to a point moved 'that the right of suffrage in the first branch * * * ought not to be according to the rule in the Articles of Confederation—one vote to each State—but according to some equitable ratio of representation.' * * *

"Mr. Dickinson, of Delaware, contended for the actual contributions of the States, as the rule, etc. By

[1] The opposition of New Englanders to counting three-fifths of the slaves in the representative population brought Mr. Williamson, of North Carolina, to his feet. He "reminded Mr. Gorham (of Massachusetts) that, if the Southern States contended for the inferiority of blacks to whites when taxation was in view, the Eastern States, on the same occasion, contended for their equality."—El. Deb., 5, 296.

thus connecting the interests of the States with their duty, the latter would be sure to be performed.[1] * * *

"On the question for agreeing to King's and Wilson's motion it passed in the affirmative. Massachusetts, Connecticut, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, aye, 7; New York, New Jersey, Delaware, no, 3; Maryland, divided.

"It was then moved by Mr. Rutledge, of South Carolina, and seconded by Mr. Butler, to add to the words 'equitable ratio of representation,' at the end of the motion just agreed to, the words 'according to the quotas of contribution.'

"On motion of Mr. Wilson, of Pennsylvania, seconded by Mr. Pinckney, of South Carolina, this was postponed in order to add, after the words 'equitable ratio of representation,' the words following—'in proportion to the whole number of white and other free citizens and inhabitants of every age, sex and condition, including

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[1] Mr. Dickinson here hints at the failure of some of the States to furnish their quotas of requisitions, and he evidently supposed that under the new Constitution the old system would be pursued. This supposition seems to have prevailed throughout the States. In the North Carolina Convention which met in Hillsboro,' July 1, 1788, and declined to carry the State into the new Union, Mr. Gowdy, of Guilford County, objecting to the plan of the Constitution, said: "Mr. Chairman, this clause of taxation will give an advantage to some States over the others. It will be oppresssive to the Southern States. Taxes are (to be) equal to our representation. To augment our taxes, and increase our burdens, our negroes are to be represented. * * * I wish not to be represented with negroes if it increases my burdens." To this Mr. Davie replied that it was the "same principle (three-fifths of the slaves) which was proposed some years ago by Congress, and assented to by twelve of the States."—Elliot's Debates, 4, 30.

Another objection to the plan was that there would be two sets of tax-gatherers in every State. To this Mr. Hamilton, in No. XXX of the Federalist, replied that if Congress collected direct taxes, it would, in his opinion, "make use of the State officers and State regulations."

those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State'—this being the rule in the act of Congress, agreed to by eleven States, for apportioning quotas of revenue on the States, and requiring a census only every five, seven, or ten years.

"On the question Massachusetts, Connecticut, New York, Pennsylvania, Maryland, Virginia, North Carolina, South Carolina, Georgia, aye, 9; New Jersey, Delaware, no, 2."

This was in committee of the whole House; and when Gorham, of Massachusetts, reported the plan to the Convention, and Patterson, of New Jersey, objected to it on the ground that the voting ought to be as in the old Congress, Mr. Rufus King made the remarks already quoted in another connection.

Thus the basis of taxation agreed to by eleven States under the old system was properly adopted—on a motion made, too, by a Northern Member—as the basis of representation as well as of taxation in the Constitution; and nothing short of stupidity could find any "slave power" in it.

But Horace Greeley found it (American Conflict, Vol. I, pp. 43-46). He utterly ignores (if he knew anything about it) the reason for counting three-fifths of the slaves, just as he ignores the "bargain" between the New England Members and those from Georgia and South Carolina by which the former secured "preferential distinctions in commerce." He says: "If slaves are human beings, why should they not be represented like other human beings? * * * If, on the other hand, you consider them property * * * why should they be represented any more than ships, houses, or cattle? * * * * We can only answer that slavery and

reason travel different roads. * * * The Convention, without much debate or demur, split the difference, by deciding that the basis alike of representation in Congress and of direct taxation, should," etc.

Referring to the slave trade provision he represents Georgia and South Carolina as threatening "No slave trade, no Union!" as if there were not a Union then existing, of which they were members! "But," he says, "the ultimatum presented by the still slave-hungry States of the extreme South was imperative, and the necessity of submitting to it was quite too easily conceded. Roger Sherman, of Connecticut, was among the first to admit it."[1]

3. The third crime charged to the "slave power" is defined thus by Greeley: "At length, when the Constitution was nearly completed, slavery, through its attorney, Mr. Butler of South Carolina, presented its little bill for extras. Like Oliver Twist, it wanted 'some more.' Its new demand was that slaves escaping from one State into another, might be followed and legally claimed. The requirement, be it observed, was entirely outside of any general and obvious necessity. No one could pretend that there was anything mutual in the obligation it sought to impose. * * * The old Confederation had known nothing like it; yet no one asserted that the want of an interstate law was among the necessities or grievances which had impelled the assembling of this Convention," etc.

The "old Confederation" *had known* something like it, and the very year when Mr. Butler presented his "little bill" (July 13), the Congress of the Confedera-

[1] Greeley seems to have been laboring under the delusion that the North had been appointed by some competent authority to prohibit the importation of slaves into the Southern States, and that Georgia and South Carolina, by threats of "Disunion," frightened it into *concessions!*

tion added this proviso to the anti-slavery Article (the 6th) in the Ordinance for the government of the Northwest Territory: "That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid."

So that Butler's proposition was simply to extend this provision to the States; and the propriety of doing so seems to have been questioned by nobody. Greeley, himself, quoting from Madison's Papers, Vol. 3, pp. 145 and 146, shows in a footnote that Butler's motion was agreed to unanimously—"nem. con"., as Madison wrote it.[1]

4. The "slave power" acquired Louisiana for the unworthy purpose of expanding itself and insuring its dominion over the Union.

Mr. Greeley embodies this charge in the following passage, Vol. I, p. 354: " 'Why can't you let slavery alone?' was imperiously or querulously demanded at the North"—by those, he means, who believed that the Constitution ought to have been respected—"throughout the long struggle preceding that bombardment (Sumter), by men who should have seen, but would not, that

[1] "It was a matter of common practice to return fugitives before the Constitution was formed. Fugitive slaves from Virginia to Massachusetts were restored by the people of Massachusetts. At that day there was a great system of apprenticeship at the North, and many apprentices at the North, taking advantage of circumstances and of vessels sailing South, thereby escaped; and they were restored on proper claim and proof. That led to a clear, express, and well-defined provision in the Constitution," etc.—Webster's Reception Address at Buffalo, May 22, 1851.

So it seems that the provision of the Constitution applied to fugitive apprentices (white persons) as well as to fugitive slaves; and all the talk about avoiding the use of the word slave in the Constitution goes for nothing.

slavery never let the North alone, nor thought of so doing. 'Buy Louisiana for us!' said the slave-holders. 'With pleasure.' 'Now Florida.' 'Certainly,' " etc.

This charge is as baseless as any of the preceding; and Mr. Greeley's "Slavery never let the North alone" is not only baseless, but silly. The purchase of Louisiana was negotiated by Mr. Jefferson, who was a pronounced opponent of slavery, and for reasons which Mr. Greeley had no excuse for not knowing.

The subject is quite fully discussed in the Statesman's Manual, Vol. I, pp. 232-40—a work which seems never to seek opportunities of commending Southern men or measures.

During the session of Congress which closed on March 3, 1803, an act was passed authorizing the President to call upon the Governors of "such States as he might deem expedient, for a detachment of militia, not exceeding 80,000, or to accept the services of any corps of volunteers, in lieu of militia, for a term of twelve months"; and $25,000 were appropriated for the erection of arsenals on the western waters.

"There was at this time much apprehension of a war with Spain, which induced Congress to take the measures of precaution above-mentioned. The disputes with the Spanish Government respecting the southwestern boundary line of the United States, and the right of navigating the Mississippi, had often caused difficulties between the people of the west and southwest and the Spanish authorities and inhabitants of the Spanish territories." In 1802 it was learned that by a secret treaty Spain had in 1800 ceded Louisiana to France. "By a treaty with Spain, in 1795, that Government had granted to the United States the right of deposit at New Orleans for three years, after which the privilege was either to be continued, or an equivalent place assigned

on another part of the banks of the Mississippi. In October, 1802, the Spanish intendent, by proclamation, declared that the right of deposit at New Orleans no longer existed.

"This measure caused much excitement among the people of the western States and Territories in the valley of the Mississippi." The excitement increased when those people heard of the secret treaty with France, and had reason to believe the suspension had been ordered by the French Government.

Mr. Jefferson, in view of the supposed well-founded opinion that a French army was coming over to take possession of Louisiana, wrote to Mr. Livingston, United States Minister to France, that if this were done, the United States must become allies of Great Britain and antagonists of France. "He then suggests, however, that if France considers Louisiana as indispensable to her interests, she may still cede to the United States the Island of New Orleans. * * * That this cession would, in a great degree, remove the causes of irritation," etc.

Mr. Jefferson did not contemplate the cession of the whole of Louisiana Territory; this was a proposition of Napoleon himself. And not even the X-rays can reveal any "slavery" in the transaction. There is no hint of such a reason for the purchase in the Statesman's Manual, nor anywhere else, except in the brain of a modern statesman of the Greeley type.

As to Florida, if it was purchased to strengthen the "slave power," it is remarkable that that power did not secure two Senators in Congress by erecting all or a part of the Territory into a State until 1845—twenty-six years after the purchase. The population in 1830 was nearly 35,000, or about 7,000 more than that of Ne-

braska when Mr. Greeley's political sympathizers made a State of it.

But Mr. Greeley wished to belabor the South, and he was not scrupulous in selecting weapons.

5. The "slave power" annexed Texas for the purpose of strengthening itself.

There may be some truth in this charge; but possibly there were good and sufficient reasons for the annexation, aside from any party or sectional advantage. The population of Texas was composed almost entirely of emigrants from the States of the Union; they were anxious for some sort of an alliance with the United States as a shield against aggressions from Mexico; and the election of Mr. Polk on an annexation platform removes any suspicion of intrigue on the part of the "slave power." The platform declared for "the re-annexation of Texas at the earliest practicable period"; and Mr. Polk received the electoral votes of Maine, New Hampshire, New York, Pennsylvania, Indiana, Illinois, and Michigan (Benton, 2, 625)—States which certainly were not favorable to an expansion of the "slave power."

But if we grant that the motive was solely what the traducers of the South insist it was, the necessity for self-defense against the "eating out" of their substance by the commercial and manufacturing classes in the Northeastern and Middle States and the squandering of the property belonging to all the States, was a sufficient justification.

6. The "slave power" trampled on a sacred compact which it had made with "freedom"—the so-called Missouri Compromise; or, in the words of Eli Thayer, "ventured foolishly to overthrow a time-honored compact and subject herself to a charge of bad faith."[1]

[1] Kansas Crusade, page 22.

It would be a long and tedious work to show by reviewing acts of Congress the utter groundlessness of this accusation; and the reader shall not be asked to do more than weigh the evidence presented by a few decisive facts.

a. The Constitution conferred on the Congress no power over slavery in any of the territory "belonging to the United States."

b. Article III of the treaty with France stipulated that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible according to the principles of the Federal Constitution to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."[1]

c. African slavery existed in the Louisiana Territory—slaves were property—at the time of the treaty of cession. Hence, since treaties are declared to be a portion of the "supreme law of the land," any interference of the Congress with the institution of slavery in the said Territory, was a double violation of "law"; and was, *ipso facto*, null and void, or, as Brightley's Digest, Vol. I, p. 647, says in a footnote, was "null and void, *ab incepto*."

But if it had been a valid law, the charge of "bad faith" on the part of the South was without foundation, for the following reasons:

a. The Missouri Compromise was section 5 of the Act of March 6, 1820, the 1st section of which authorized the people to form a State Constitution; and declared that "the said State, when formed, shall be admitted

[1] United States Statutes at Large, Volume VIII, page 202.

into the Union upon an equal footing with the original States, in all respects whatsoever."

b. The people, thereupon, proceeded to form a Constitution, organize a State government, and elect all necessary officials, including Presidential Electors.

c. But the restrictionists repudiated the "time-honored compact" at the next session of Congress; they refused to permit Missouri's electoral vote to be counted, or to accord to her any of the privileges of a member of the Union; and she was admitted into the Union August 21, 1821, by an act which was opposed almost unanimously by the restrictionists, the vote in the House of Representatives being 87 to 81.

There was, therefore, no *compromise* between the North and the South which any code of morals recognized among sane men would hold to be binding on the South. *The restrictionists did not agree to permit Missouri to come into the Union as a Slave State on condition that the South would consent to recognize the parallel of 36 degrees and 30 minutes as the boundary between "slavery" and "freedom" in the territory west of the Mississippi.*[1]

Many other accusations have been brought against the "slave power"; but they belong to that class of indictments which impose on the accused the necessity of proving a negative. Hence we may pass them by as not worthy of notice.

Such, dear reader, were the principal weapons in the armory of the South's traducers during all the ante-bellum days; and being regarded as the ravings of igno-

[1] The whole subject, with references to authorities, is fully presented in Stephens's Pictorial History of the United States; and the dates of the so-called Missouri Compromise, and of the act to admit Missouri into the Union can be found on page 647 of Brightley's Digest, Volume I.

rant fanatics, not deserving of respectful refutation, they passed into history. They stand as history to-day, supplemented by such choice selections as "traitor," "oligarchy," "chivalry," "conspiracy," "insurrection," etc., etc., "rebel" being regarded as a mild term.

But among all the charges against the "slave power" the most ignorant and malignant of the enemies of the South never stultified themselves by including the charge that the South *ever attempted to use the machinery of the Federal Government to enrich herself at the expense of the North!* She never asked for the privilege of compelling the North to pay from 20 to 200 per cent for the products of her fields and forests more than the price of similar products of foreign countries; she never asked for bounties to any class of her laborers; she never asked for any undue participation in the distribution of the public lands or the proceeds of their sales; she never asked for any monopolistic privileges; and she never asked for any unfair advantages to her soldiers in the distribution of pensions. *Her hands are clean—admitted to be so by the silence of her enemies*, even if the evidence furnished by public records were destroyed.

NOTE W.

The first movement ever made toward a disruption of the Union was made by Massachusetts.

The plan of changing the basis of the contributions of the States from land to population being in contemplation in the early months of 1783, it was the desire of the Northeastern Members to include all or nearly all of the slaves, while the Southern Members urged that not even half of them should be included. The committee appointed to report a plan advised that "two blacks be rated as one freeman." But "for the sake of the object" the South yielded to the rate of three-fifths, the first vote on this rate being as follows:

New Hampshire, aye; Massachusetts, divided; Rhode Island, no; Connecticut, no; New Jersey, aye; Pennsylvania, aye; Maryland, aye; Virginia, aye; North Carolina, aye; South Carolina, aye.

The next vote was on a motion of Bland, of Virginia, to strike out the clause as amended, and the States voted as follows:

New Hampshire, aye; New Jersey, aye; Pennsylvania, aye; Maryland, aye; Virginia, aye; North Carolina, aye; Massachusetts, no; Rhode Island, no; Connecticut, no; Delaware, no; South Carolina, no.

"On April 1 Mr. Gorham (Massachusetts) called for the order of the day, to-wit: the report on revenue, etc., and observed, as a cogent reason for hastening that business, that the Eastern States, at the invitation of Massachusetts, were, with New York, about to form a convention for regulating matters of common concern, and that if any plan should be sent out by Congress during their session, they would probably cooperate with Congress in giving effect to it."

This was a threat of secession from the Confederacy, and it was intended to coerce the South into compliance with the demands of Massachusetts. It was so understood by Mr. Mercer, of Virginia, who "expressed great disquietude at this information; considered it as a dangerous precedent; and that it behooved the gentleman to explain fully the objects of the convention, as it would be necessary for the Southern States to be, otherwise, very circumspect in agreeing to any plans on a supposition that the general Confederacy was to continue."

Mr. White, of New Hampshire, informed the Members that his State had declined to accede to the plan of a convention on foot.

Mr. Hamilton, who had been absent when the vote was taken, moved a reconsideration, and was seconded by Mr. Osgood. "Those who voted differently from their former votes were influenced by the conviction of the necessity of the change, and despair on both sides of a more favorable rate of slaves." The rate of three-fifths was agreed to without opposition. [1]

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[1] Elliot's Debates, Volume V, pages 79–81.

CHAPTER XIX.

MR. BENTON'S VIEWS.

It is natural for most readers to suspect that a Southerner who has taken a lively interest during the last fifty years in the controversy between the North and the South, is unable to discuss with fairness and impartiality the causes of Southern discontent; and that in the preceding chapters the motives of men have been unjustly impugned, if not misunderstood, and the consequences of their acts exaggerated.

To allay this suspicion as far as the corroborative testimony of an undoubtedly impartial writer can do it, the views of Mr. Benton are here presented. What he says is valuable in another respect; it shows that even Thomas H. Benton often voted for measures which "his judgment disapproved and his feelings condemned."

The following extracts are taken from Chapter XXXII, vol. 2, of his THIRTY YEARS IN THE UNITED STATES SENATE. After stating in general terms the causes of Southern discontent, he says:

"The writer of this view sympathized with that complaint; believed it to be, to much extent, well founded; saw with concern the corroding effect it had on the feelings of patriotic men of the South; and often had to lament that a sense of duty to his own constituents required him to give votes which his judgment disapproved and his feelings condemned. This complaint existed when he came into the Senate (1821); it had, in fact, commenced in the first years of the Federal Government (i. e., under the Constitution), at the time of the assumption of the State debts, the incorporation of the first national bank, and the adoption of the funding system; all of which drew capital from the South to the

North. It continued to increase; and, at the period (1838) to which this chapter relates, it had reached the stage of an organized sectional expression in a voluntary convention of the Southern States. It had often been expressed in Congress, and in the State Legislatures, and habitually in the discussions of the people; but now it took the more serious form of joint action, and exhibited the spectacle of a part of the States assembling sectionally to complain formally of the unequal, and to them, injurious operation of the common government, established by common consent for the common good, and now frustrating its object by departing from the purposes of its creation. * * *

"It (the convention) met at Augusta, Georgia, and afterwards at Charleston, South Carolina; and the evil complained of and the remedy proposed were strongly set forth in the proceedings of the body, and in addresses to the people of the Southern and Southwestern States. The changed relative condition of the two sections of the country, before and since the Union, was shown in their general relative depression or prosperity since that event, and especially in the reversed condition of their respective foreign import trade.[1] * * * The convention referred the effect to a course of Federal legislation unwarranted by the grants of the Constitution and the objects of the Union, which subtracted capital from one section and accumulated it in the other: protective tariff, internal improvements, pensions, national debt, two national banks, the funding system and the paper system; the multiplication of offices, profuse and extravagant expenditure, the conversion of a limited into an almost unlimited government; and the substitution of power and splendor for what was intended to

[1] The reader is requested to bear in mind that "slavery" and "freedom" cut no figure in this convention.

be a simple and economical administration of that part of their affairs which required a general head.

"These were the points of complaint—abuses—which had led to the collection of an enormous revenue, chiefly levied on the products of one section of the Union and mainly disbursed in another * * * Unhappily there was some foundation for this view of the case; and in this lies the root of the discontent of the South and its dissatisfaction with the Union. * * *

"What has been published in the South and adverted to in this view goes to show that an incompatibility of interest between the two sections, though not inherent, has been produced by the working of the government—not its fair and legitimate, but its perverted and unequal working. * * *

"The conventions of Augusta and Charleston proposed their remedy for the Southern depression, and the comparative decay of which they complained. It was a fair and patriotic remedy—that of becoming their own exporters, and opening a direct trade in their own staples between Southern and foreign ports.[1] It was recommended—attempted—failed. Superior advantages for navigation in the North—greater aptitude of its people for commerce—established course of business—accumulated capital—continued unequal legislation in Congress; and increasing expenditures of the government, chiefly disbursed in the North, and defect of seamen in the South (for mariners can not be made of slaves), all combined to retain the foreign trade in the channel which had absorbed it; and to increase it there with the increasing wealth and population of the country, and the still faster increasing extravagance and profusion of the government. * * *

[1] This was proposed after the adoption of the compromise tariff, and when it was supposed that "protection" was dead.

"This is what the dry and naked figures show. To the memory and imagination it is worse; for it is a tradition of the colonies that the South had been the seat of wealth and happiness, of power and opulence; that a rich population covered the land, dispensing a baronial hospitality, and diffusing the felicity which themselves enjoyed; that all was life, and joy, and affluence then. And this tradition was not without similitude to the reality, as this writer can testify; for he was old enough (born 1782) to have seen (after the Revolution) the still surviving state of Southern colonial manners, when no traveler was allowed to go to a tavern, but was handed over from family to family through entire States; when holidays were days of festivity and expectation, long prepared for, and celebrated by master and slave with music and feasting, and great concourse of friends and relatives; when gold was kept in desks or chests (after the downfall of continental paper) and weighed in scales, and lent to neighbors for short terms without note, interest, witness, or security; and on bond and land security for long years and lawful usage; and when petty litigation was at so low an ebb that it required a fine of forty pounds of tobacco[1] to make a man serve as constable.

"The reverse of all this was now seen and felt. * * * . "Separation is no remedy for these evils, but the parent of far greater than either just discontent or restless ambition would fly from. To the South the Union is a political blessing; to the North it is both a political and a pecuniary blessing. * * * Both sections should cherish it, and the North most," etc.

[1] It was fifty shillings in North Carolina.—Laws, page 132.

CHAPTER XX.

THE CAUSES AND THE CONDUCT OF THE WAR FOR THE SUBJUGATION OF THE SOUTHERN STATES.

"A great man is great, and he is a man; what makes him great is his relation to the spirit of his times, and to his people; what makes him a man is his individuality; but separate these two elements, consider the man in the great man, and the greatest of men appears small enough. Every individuality, when it is detached from the general spirit which it expresses, is full of what is pitiful. When we read the secret memoirs which we have of some great men, and when we follow them into the details of their life and conduct, we are always quite confounded to find them not only small, but, I am compelled to say, often vicious and almost despicable."—Victor Cousin, Hist. Mod. Phil.

The causes of the war between the two sections of the Union, the responsibility for its inauguration, and the rightfulness of the invasion of the Southern States have been so consistently and so persistently misrepresented to the world during the last thirty-six years that it seems a daring enterprise to attempt to remove the resulting false impressions. But truth and justice demand the attempt; and it is here made.

In the first Constitution of the United States there were three Articles which embodied all that the Southern States ever contended for during all the years of sectional strife.[1]

[1] It is worth while to remind the reader that even the most unscrupulous traducers of the Southern States never charged them with infidelity to the obligations they assumed on entering into the Union. Mr. Blaine and the statesmen of his school magnified what he called unfaithfulness to the Union; but he did not dare to accuse them of the crime of which his own party was guilty—unfaithfulness to the Constitution.

They were as follows:

"Article II. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right, which is not by this confederation expressly delegated to the United States in Congress assembled;"

"Article III. The said States hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, *sovereignty*, trade, or any other pretence whatever"; and

"Article IV. * * * The free inhabitants of each State, paupers, vagabonds, and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several States; * * * no imposition, duties or restrictions shall be laid by any State on the *property* * * * of either of them. If any person guilty of, or charged with *treason*, *felony*, or *other high misdemeanor* in any State, shall flee from justice, and be found in any of the United States, he shall upon the demand of the Governor or executive power of the State from which he fled, be delivered up and removed to the State having jurisdiction of his offense. Full faith and credit shall be given in each of these States to the records, acts, and judicial proceedings of the courts and magistrates of every other State."

Afterwards (1787), when the new Constitution was submitted for ratification to the several States (containing the additional covenant in express terms, which had been embodied in the Ordinance for the government of the Northwest Territory, that fugitives from labor should be delivered up—a covenant implied in Article III above, and not distinctly formulated because slaves

were "property" in each of the thirteen States when the Articles were framed), strong opposition to ratification appeared in at least seven of the conventions, because Article II of the old Constitution was omitted. It was feared, notwithstanding the asseverations of delegates to the contrary, and notwithstanding the evident exclusion of powers except those "herein granted," that the Congress would usurp powers not delegated to it; and this fear led to a demand for amendments. Accordingly, the demand being supported by majorities in nearly all the States, the first Congress promptly submitted to the States and they ratified ten amendments, the last one being understood to supply the omission. It is: "The powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

The spirit, therefore, and almost the letter of Articles II, III and IV of the old Constitution are contained in the new one, together with the additional covenant respecting fugitives from labor. Nothing, it is true, is said about retaining sovereignty; there was no doubt at that time that each State was sovereign, free, and independent; and the words "delegate" and "reserve" could have implied nothing less. The granting of a sovereign power does not deprive the grantor of his sovereignty, nor enthrone the grantee as a sovereign.

Such was the restricted field in which the Federal Government was morally bound to confine its operations; and such were some of the obligations assumed by each State on its entrance into the Union—obligations and restrictions which could not be violated without absolving an injured State from the ties which bound it to the Union. [1]

[1] This is Mr. Madison's "delicate truth" in No. XLIII of the Federalist, but it is a truth which can not be denied by anybody whose standard of morals is worthy of respect.

Let us then inquire whether these restrictions and obligations have been respected.

The reader will find elsewhere discussed the violations of the Constitution in

1. The unauthorized disposal of the public lands;

2. The unjust and unauthorized assumption of the State debts;

3. The bounties to Northeastern fishermen;

4. The bounties to vessels engaged in the foreign trade;

5. The granting of a monopoly of the coasting trade;

6. The exclusion of Southern men with their property from the common territory;

7. The indirect bounties to domestic manufacturers out of the pockets of the agricultural and other classes of the people;

8. The burdening of all the people with the expenses of government in the organized Territories; and

9. The pensioning of the North's Revolutionary soldiers at the expense of the South.[1]

It remains, then, to record the infractions of the mutual obligations of the States.

Some of the most flagrant were:

1. Emigrant Aid Societies, organized under the protection of certain States, and for whose acts those States were morally responsible, sent bloodthirsty fanatics into

[1] With all these infractions of the expressed or implied rights of the States and of the people, well known to intelligent persons, Mr. Lincoln, in his first inaugural address, said: "Is it true, then, that any right, plainly written in the Constitution, has been denied? I think not." And then, feeling himself securely supported by this denial, he proceeded to justify the seceding States thus: "If by the mere force of numbers a majority should deprive a minority of any clearly written Constitutional right, it might, in a moral point of view, justify revolution—certainly would, if such right were a vital one."

Kansas and elsewhere to murder Southern men, women, and children;[1]

2. With moneys furnished by these societies John Brown raised an army and invaded the State of Virginia;[2]

3. Two of Brown's accomplices, who had been indicted in Virginia, escaped, one to Ohio and one to Iowa; and the Governors of those States refused to surrender them on the demand of Governor Wise, of Virginia;

4. Emissaries from those societies went (1860) to the borders of Texas to incite the savage Indians to butcher the people of that State;

5. Under the shadow of Bunker Hill, and by the active or passive assistance of Massachusetts, the fugitive slave clause of the Constitution was trampled under the feet of a mob, which took Shadrach, a fugitive slave, from the officers of the law, and carried him off to a place of safety; and one named Jerry was liberated in Syracuse, N. Y., under like circumstances;

6. Thirteen Northern States (Mr. Greeley undertakes to deny this as to three of them) passed what were called "personal liberty" laws forbidding citizens or

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[1] John Brown with his band of cut-throats went from house to house during the dark hours of the night, called out the occupants, and murdered them.

He robbed Martin Bourn of his money, guns, horses, saddles, and store, Bourn's offense being that he had served on the last grand jury in Lecompton. He also robbed J. M. Bernard and thirteen others.

All this "assassination and midnight robbery" was "fully justified" by James Redpath in his Life of Capt. John Brown.—Kansas Conflict, pages 265–69.

But who was James Redpath? He was a writer on the New York Tribune from 1852 till 1872; he was honored by the carpet-baggers from the North, who were placed in control of South Carolina by "the Government," with the office of School Commissioner; and he edited the North American Review from 1886 to 1888.

[2] See Note X.

officials of those States to assist in doing what they bound themselves to do when they entered into the Union.[1]

7. And to these must be added seventy years of misrepresentation of the motives of the Southern people; malignant abuse of these people; and what Carey called "insult, outrage, and injury." These offences were, in principle, treason against the "firm league of friendship."

This long train of infractions of the conditions on which the States had agreed to unite tended to weaken the bonds of Union in the States which were the chief sufferers. But, outside of the student class in the South, who enjoyed the advantages of intellectual pursuits, the unwarranted legislation summarized in the nine items above—producing slow, stealthy, and often misunderstood results—did not arouse in the masses of the people the indignation which its injustice merited; in all the later years, however, particularly after the tariff troubles in South Carolina, the impression became more and more pervasive that the people of the Southern States had been made, by Federal legislation, tributary to certain classes in the Northern States.

But partisanship and the skill of the ignorant demagogue in tracing results to wrong causes prevented a general recognition of the almost Colonial subordination of the Southern States to the commercial and manufacturing States of the North. Hence the love and rever-

[1] In Mr. Webster's speech at Buffalo, May 22, 1851, he said: "The question, fellow-citizens (and I put it to you as the real question), the question is whether you and the rest of the people of the great State of New York, and of all the States, will so adhere to the Constitution, will so enact and maintain laws to preserve that instrument, that you will not only remain in the Union yourselves, but permit your" (Southern) "brethren to remain in it, and help to perpetuate it?"

ence for the union of Washington, Jefferson, Madison, and the other distinguished "fathers" lost little of its fervor.

But when the successive infractions of the mutual covenants of the States, like the few summarized above, were flashed over the Union by the telegraph, the determination of certain Northern States not only to disregard their obligations to their sister States in the South, but to endanger social order in these States, revived and emphasized the old sense of wrong; and the sacredness of the Union became an open question. Still, however, as "mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed," the avowed advocates of a dissolution of the Union constituted a small faction in most of the Southern States, the great majority trusting that by some means the sense of justice and moral obligation in the people of the Northern States would prevail in their councils. But bodies in motion overcome bodies at rest; the appeals of those whom our Northern friends called "fire-eaters" began to make inroads on the Union sentiment; and when by a combination of fanaticism, avarice,[1] and sectional hate,

[1] It was understood in the winter of 1860–'61 that Pennsylvania, which had given her electoral vote to every Democratic candidate for the Presidency from 1796 to 1856, inclusive, except in 1840 and 1848, gave her vote to Mr. Lincoln because his platform favored a tariff for protection—"to encourage," it said, "the development of the industrial interests of the whole country."

Whether this charge was well founded or not, so soon as the retirement of Southern Members from the halls of Congress gave the North control of legislation, bituminous coal was taken from the free list and a tax of $1 per ton imposed on it; pig iron, removed from the 24 per cent schedule, was taxed $6 per ton; and manufactures of iron, removed from the 24 per cent schedule or the free list, were taxed from fifteen to forty dollars per ton.—See Act of March 2, 1861.

a President, representing every interest hostile to the Southern States, was declared elected (although of a total popular vote of 4,680,881 he had received only 1,865,913, or about 39 out of each 100), the quiver of the "fire-eater" was filled with fresh and more effective arrows; the prospect of justice in the Union was dimmed; and in South Carolina, where there still rankled in the bosoms of the people the bitterness engendered by their old struggle for relief from tariff burdens, the "fire-eater" met with few obstacles in his path.[1]

South Carolina repealed her ordinance ratifying the Federal Constitution, resumed all the powers she had delegated in the Constitution, and declared herself to be as free, sovereign, and independent as she was before she acceded to the Confederation. She set forth the reasons for her action.[2] She sent Commissioners to

[1] In the South Carolina Secession Convention, Delegate Parker said: "It appears to me, with great deference to the opinions that have been expressed, that the public mind is fully made up to the great occasion that now awaits us. It is no spasmodic effort that has come suddenly upon us; it has been gradually culminating for a long period of thirty years."

Mr. Inglis, another delegate, said: "As my friend (Mr. Parker) has said, most of us have had this matter under consideration for the last twenty years."

And Mr. Rhett said: "It is not anything produced by Mr. Lincoln's election, or by the non-execution of the fugitive slave law. It is a matter which has been gathering head for thirty years."

To the testimony of these parties we can fortunately add that of Mr. Lincoln, that the tariff controversy in 1828, 1830 and 1832 gave the first impulse to secession in the South. "With rebellion thus sugar-coated," he said in his message to the called session of Congress, July 4, 1861, "they have been drugging the public mind of their section for more than thirty years."

[2] The principal reasons stated were that the New England States, New York, Pennsylvania, Illinois, Indiana, Michigan, Wisconsin, and Iowa had nullified the law of Congress providing for the enforcement of the Constitutional covenant respecting fugitives from labor; and that Ohio and Iowa had refused to comply with the

President Buchanan, whose term was not yet closed, to settle amicably all questions of property rights, having little doubt of success, since seventeen days before the passage of her secession ordinance, he had expressed this opinion in his annual message:

"Congress may possess many means of preserving it (the Union) by conciliation, but the sword was not placed in their hand to preserve it by force."

This confidence of South Carolina in an amicable settlement was not founded solely on this announcement in Mr. Buchanan's message. Other acts and utterances were relied on, some of which were the following:

1. When in 1790 Mr. Hamilton, the Secretary of the Treasury, became alarmed for the success of his scheme to assume the debts of the several States, he appealed to Mr. Jefferson, the Secretary of State, for his influence with Members of Congress in aid of the measure, presenting the reason that, if the measure should fail, the Members from the creditor States would withdraw from the Congress, and there would be "a separation of the States."

2. The famous "Kentucky and Virginia Resolutions of 1798, and * * * the Report of Mr. Madison to the Virginia Legislature in 1799," adopted and reaffirmed in the platforms on which Franklin Pierce and James Buchanan were elected to the Presidency, laid down the doctrine that as there is no common judge between the States of the Union, "each party (State) has an equal right to judge for itself, as well of infractions as of the mode and measure of redress."

3. In 1803 Col. Timothy Pickering, a Senator from Massachusetts, elected that year to fill a vacancy and

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covenant respecting fugitives from justice (those demanded by the Governor of Virginia for their participation in John Brown's crimes).—See Stephens's Pictorial History, etc., 560.

reelected next year for a full six years' term (and was elected to the House of Representatives in 1814) wrote a letter to a friend in which he asserted the right of a State to withdraw from the Union. Complaining of what he called the "oppressions of the aristocratic Democrats[1] of the South," he said: "I will not despair. I will rather anticipate a new Confederacy, exempt from the corrupt and corrupting influence, etc. There will be (and our children, at farthest, will see it) a separation," etc. And in another letter written a short time afterwards he said of his proposed "separation": "That this can be accomplished, and without spilling one drop of blood, I have little doubt. * * * It (the separation) must begin in Massachusetts. The proposition would be welcomed in Connecticut; and could we doubt of New Hampshire? But New York must be associated; and how is her concurrence to be obtained? She must be made the center of the Confederacy. Vermont and New Jersey would follow of course, and Rhode Island of necessity" (Maine was not a State at that time).

4. In 1803 was published Judge Tucker's Blackstone, in the Appendix to which, page 187, speaking of the nature of the Union, he said: "Each is still a perfect State, still sovereign, still independent, and still capable, should the occasion require, to resume the exercise of its functions, as such, in the most unlimited manner."

5. In 1811 the Hon. Josiah Quincy, a Member of Congress from Massachusetts, opposing a bill for the admission of Louisiana as a State into the Union, because, as the reader can infer from evidence elsewhere presented, the South would be thereby strengthened in Congress, said: "If this bill passes, it is my deliberate opinion that

[1] The word "Democrats" was a term of reproach.

it is virtually a dissolution of this Union; that it will free the States from their moral obligation; and as it will be the right of all, so it will be the duty of some, definitely to prepare for a separation—amicably if they can, violently if they must."[1]

Mr. Quincy does not seem to have been at variance with public sentiment in Massachusetts; he was honored with many official stations afterwards, serving in the State Legislature, as judge of the Municipal Court of Boston, as mayor of Boston, and from 1829 to 1845 as President of Harvard College.

6. In 1814 the Hartford Convention, composed of delegates chosen by the Legislatures of Massachusetts, Rhode Island, and Connecticut, with some county and town representatives from the other New England States, published an address (after deliberating with closed doors on the propriety or necessity of withdrawing their States from the Union) in which they said:

"If the Union be destined to dissolution * * * it should, if possible, be the work of peaceable times and deliberate consent. Some new form of confederacy should be substituted among those States which shall intend to maintain a federal relation to each other. Events may prove that the causes of our calamities are deep and permanent. * * * Whenever it shall appear that the causes are radical and permanent, a separation by equitable arrangement will be preferable to an alliance by constraint among nominal friends, but real enemies."

7. William Rawle, who became United States District

[1] Speaker Varnum, on a point of order raised by Mr. Poindexter of Mississippi, decided that Quincy's declaration of the right or duty of States to secede was out of order; but "a part of the Democrats voting with the Federalists, the House reversed" the Speaker's decision, 56 to 53.—Hildreth, New Series, 3, 226.

Attorney for Pennsylvania in 1791, declined the office of United States District Judge in 1792, and was Chancellor of the Law Association of Philadelphia from 1822 till his death in 1836, wrote an elaborate work on the Constitution, which was published in 1825. He had been a firm supporter of President John Adams's Administration; but when he entered upon the investigations necessary to prepare himself for the composition of his great work—RAWLE ON THE CONSTITUTION—he was brought to the same conclusion that closer study brought Mr. Webster to. He said:

"The Union is an association of the people of Republics; its preservation is calculated to depend on the preservation of those Republics. * * * It depends on the State itself, to retain or abolish the principle of representation; because it depends on itself, whether it will continue a member of the Union. To deny this right, would be inconsistent with the principles on which all our political systems are founded; which is, that the people have, in all cases, a right to determine how they will be governed.

"This right must be considered as an ingredient in the original composition of the General Government, which, though not expressed, was mutually understood," etc.

8. In 1839 ex-President John Q. Adams delivered an address before the New York Historical Society, in which he said: "The indissoluble link of union between the people of the several States of this confederated nation is, after all, not in the right, but in the heart. If the day should ever come (may Heaven avert it) when the affections of the people of these States shall be alienated from each other—the bonds of political association will not long hold together parties no longer attracted by the magnetism of conciliated interests and kindly sympathies; and far better will it be for the peo-

ple of the disunited States to part in friendship with each other than to be held together by constraint. Then will be the time for reverting to the precedents which occurred at the formation and adoption of the Constitution, to form again a more perfect Union, by dissolving that which could no longer bind, and to leave the separated parts to be reunited by the law of political gravitation to the center."

9. In this same year (1839) the question whether the laws of nations, or the laws which regulate the intercourse of separate sovereignties, apply to the States of the Union, was decided by the Supreme Court in the case of *The Bank of Augusta vs. Earle.* The Court in the course of its decision said: "They are sovereign States. * * * We think it well settled, that by the law of comity among nations, a corporation created by one sovereign is permitted to make contracts in another, and to sue in its courts; and that the same law of comity prevails among the several sovereignties of this Union."

10. In 1841, while abolition societies were exerting themselves to disrupt the Union, and their emissaries had been violating the privileges of debate in the House of Representatives by vilifying the people of the Southern States and their Representatives, not only in disregard of the rules of the House, but of the Constitution itself, since the subject they discussed was beyond the Constitutional control of the Congress, Gen. William H. Harrison expressed himself as follows in his Inaugural Address: "It was, indeed, the ambition of the leading States of Greece to control the domestic concerns of the others, that the destruction of that celebrated confederacy, and subsequently of all its members, is mainly to be attributed. And it is owing to the absence of that spirit that the Helvetec confederacy has for so many years been preserved. * * *

"Our confederacy, fellow-citizens, can only be preserved by the same forbearance. * * * The attempt of those (citizens) of one State to control the domestic institutions of another, can only result in feelings of distrust and jealousy, and are certain harbingers of disunion, civil war, and the ultimate destruction of our free institutions. Our confederacy is perfectly illustrated by the terms and principles governing a common copartnership."

11. In 1844 the Legislature of Massachusetts threatened the President and the Congress in this style: "The project of the annexation of Texas, unless arrested on the threshold, may tend to drive these States (New England) into a dissolution of the Union."

12. In 1851 Daniel Webster, "the Great Expounder of the Constitution," delivered a speech at Capon Springs, Virginia, wherein he said:

"If the South were to violate any part of the Constitution intentionally and systematically, and persist in so doing year after year, and no remedy could be had, would the North be any longer bound by the rest of it? And if the North were, deliberately, habitually, and of fixed purpose, to disregard one part of it, would the South be bound any longer to observe its other obligations? * * *

"How absurd it is to suppose that, when different parties enter into a compact for certain purposes, either can disregard any one provision, and expect, nevertheless, the other to observe the rest! * * * A bargain can not be broken on one side, and still bind the other side."

13. In 1855 Senator Benjamin F. Wade, of Ohio, whose extreme bitterness towards the Southern people, and whose support of all the usurping measures of the radicals from 1861 till his retirement from the Senate in 1867, made him a conspicuous figure and perhaps

constituted his chief qualification for the Vice-Presidency after Andrew Johnson became President, delivered a speech in the Senate, of which the following is an extract:

"Who is to be judge, in the last resort, of the violation of the Constitution of the United States by the enactment of a law? Who is the final arbiter? The General Government, or the States in their sovereignty? Why, sir, to yield that point, is to yield up all the rights of the States to protect their own citizens, and to consolidate this Government into a miserable despotism. * * * "I said there were States in this Union whose highest tribunals had adjudged that bill to be unconstitutional; * * * that my State believed it unconstitutional: and that, under the old Resolutions of 1798 and 1799, a State must not only be the judge of that, but of the remedy in such a case."

14. In 1857 Lippincott's PRONOUNCING GAZETTEER OF THE WORLD was first published, containing this definition: "The government of the United States is a confederation of independent sovereignties, delegating a portion of their power to a central government, "etc.

15. On the 9th of November, 1860, eleven days before South Carolina seceded, Horace Greeley, the editor of the New York Tribune, and one of the most able of the founders of the party which elected the President in 1860, published the following in his paper:

"The telegraph informs us that most of the cotton States are meditating a withdrawal from the Union, because of Lincoln's election. * * * If the cotton States consider the value of the Union debatable, we maintain their perfect right to discuss it. Nay: we hold, with Jefferson, to the inalienable right of communities to alter or abolish forms of government that have become oppressive or injurious; and, if the cotton States

shall decide that they can do better out of the Union than in it, we insist on letting them go in peace. The right to secede may be a revolutionary one, but it exists nevertheless; and we do not see how one party can have a right to do what another party has a right to prevent."

On this solid foundation—this recognition of the truth by a long line of the natural guides of an intelligent people—South Carolina based her expectation of success in her negotiations with the Federal authorities.

But she was disappointed; Mr. Buchanan lacked the courage of his convictions, and while turning the subject over to Congress, he claimed that it was his duty to hold and defend the property belonging to the United States, on the theory that it was the duty of the President of the United States to defend the city and harbor of Charleston—the purpose for which South Carolina had given her consent for the purchase of the sites of the forts, arsenals, magazines, etc.—after that State had withdrawn from the Union.

During this period of uncertainty and excitement two efforts were made to bring about peace and reconciliation. The first was made in the Senate by the venerable John J. Crittenden, of Kentucky. He proposed certain amendments to the Constitution, which, if adopted, would perhaps have satisfied the South; but the angry radicals voted them down. The second was a proposition by Virginia of a "Peace Congress" of all the States then in the Union to "consider, and if practicable, agree upon some satisfactory adjustment." This Congress met on the 4th of February, 1861, and adjourned on the 27th of the same month. It had during its sessions representatives from all the States then in the Union except Arkansas, California, Michigan, Wisconsin, Minnesota, and Oregon; but the necessity of "saving the Republican Party from rupture," as Sena-

tor Zach. Chandler, of Michigan, wrote to Governor Austin Blair,[1] was an insuperable obstacle to any satisfactory agreement.[2]

Thus things drifted along till Mr. Buchanan turned over the business to the sectional President.

In the meantime Mississippi, Florida, Alabama, Georgia, and Louisiana had seceded, and uniting with South Carolina, had entered into a new Union, styling themselves the Confederate States of America. The new government sent commissioners to Washington to negotiate friendly relations between the two governments, and "for the settlement of all questions of disagreement between the two governments, upon principles of right, justice, equity, and good faith." It passed an act announcing that "peaceful navigation of the Mississippi River is hereby declared free to the citizens of any of the States upon its borders, or upon the borders of its navigable tributaries." By another act it provided against any monopoly of the coast-wise trade; and by all its acts manifested a disposition to maintain amicable relations with the other States.

They adopted a Provisional Constitution, February 8, 1861, and on March 11, five days after the inauguration of Mr. Lincoln, (Texas being then in the Confederacy) a permanent Constitution was adopted. It was modeled after the Constitution of the United States, containing

[1] In a postscript to his letter Chandler expressed the opinion that "without a little blood-letting, this Union will not, in my estimation be worth a rush."

[2] Hon. George Davis, of North Carolina, a staunch Unionist, was sent as a delegate to this "Peace Congress." He returned an avowed secessionist, declaring in an address to the people of Wilmington, March 2, 1861, that he could "never accept the plan adopted by the 'Peace Congress' as consistent with the right, the interests, or the dignity of North Carolina."—Wilmington (N. C.) Daily Journal of March 4, 1861.

all its guaranties of personal, political, and State rights, together with some additional provisions intended to guard against abuses and to cure defects which had been discovered in the old system. Here is a summary of these:

1. A Confederate officer, resident and acting solely within the limits of any State, might be impeached by a vote of two-thirds of both branches of the Legislature thereof.

2. All taxes should be laid for purposes of revenue only.

3. No bounties were to be granted from the Treasury.

4. No duties or taxes were to be laid for the purpose of promoting or fostering any branch of industry.

5. No appropriation of money should be made for any internal improvement intended to facilitate commerce, except for lights, beacons and buoys, and other aid to navigation on the coast; and also for the improvement of harbors and navigable rivers, provided that such duties shall be laid on the navigation thereby facilitated as will pay the cost of the improvements.

6. No bankrupt law should discharge any debt contracted before its passage.

7. The expenses of the Post-office Department should be paid out of its own revenues.

8. The importation of slaves from any foreign country except the United States was prohibited, and the Congress was empowered to prohibit their importation from any State not a member of the Confederacy. [1]

[1] This Constitution was garbled and misrepresented to the world by the traducers of the Southern States, and their Government was denounced as "the Slave-holders' Confederacy." Moore says in his Notes, etc., that "the stains which slavery has left on the proud escutcheon of Massachusetts, are quite as significant of its hideous character as the satanic defiance of God and humanity which accompanied the laying of the corner-stone of the Slave-holders' Confederacy."

9. Congress should appropriate no money from the Treasury, except by a two-thirds vote in both Houses, taken by yeas and nays, unless it were asked for by a head of a Department; or for the payment of its own expenses; or for the payment of an adjudicated claim against the Confederate States.

10. All appropriation bills should state the exact amount of each appropriation, and its object; and no extra allowance should be made to any contractor, officer, agent, or servant.

11. Every law, or resolution having the force of law, should relate to but one subject, and that should be expressed in the title.

12. The States might lay a tonnage tax on sea-going vessels for the improvement of their rivers and harbors navigated by said vessels, provided such tax did not conflict with any treaty.

13. The President was forbidden to appoint any person to office after his rejection by the Senate.

14. No new State should be admitted into the Confederacy unless by a vote of two-thirds of the whole House of Representatives and two-thirds of the Senate voting by States.

15. The Confederate States might acquire new territory; and the Congress might legislate for the inhabitants of such territory; might permit them to organize States to be admitted into the Confederacy; provided that neither the Congress nor a Territorial Legislature should have the power to interfere with or abolish slavery.

Such were the provisions for insuring the domestic tranquillity, for guarding against that favoritism to sectional or class interests which shook the foundations of the Union in 1832 and 1833, for preventing inexcusable extravagance in appropriations, and for excluding all

those seeds of discord which have found a more or less fertile soil in every one of the world's confederations.

The 4th of March, 1861, arrived, and Araham Lincoln went into office. He reversed the policy of Mr. Buchanan, who had submitted the whole question of the relations of the two governments to the Congress; he did not summon the members to meet in special session, as the gravity of the situation—if in his estimation it was grave—demanded; but he assumed the entire responsibility of plunging the peoples of the two sections into a bloody and devastating war, declaring in his inaugural address his purpose "to hold, occupy and possess the property and places belonging to the Government, and collect the duties and imposts." But there was no property "belonging to the Government"; the language of the Constitution is, "belonging to the United States," that is, to the States of the Union. But the seceded States were some of the States to which it belonged, a fact which is carefully excluded from any inference to be drawn from the language of the address. And his determination to collect taxes in the Confederate States was unmistakably a declaration of war.

This claim of property "belonging to the Government" rested on a very weak foundation, as a brief history of the terms on which the United States acquired their title to it will make clear.

The States conferred upon the Congress the power "to exercise exclusive legislation in all cases whatsoever * * * over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings."

While Mr. Jefferson was Secretary of State, he wrote to the authorities of South Carolina, and advised that her Legislature consent for the Congress to purchase

certain lands. This was done, *but exclusive jurisdiction was denied.* The act was passed December 12, 1795, (House Ex. Doc., number 67, 2nd session, 23d Congress) "to enable the United States to purchase a quantity of land in this State, not exceeding two thousand acres, for arsenals and magazines." And it provided, "that the said land, when purchased, and every person and officer residing or employed thereon, whether in the service of the United States or not, shall be subject and liable to the government of this State, and the jurisdiction, laws and authority thereof in the same manner as if this act had never been passed; and that the United States shall exercise no more authority or power within the limits of the said land, than they might have done previous to the passing of this act, or than may be necessary for the building, repairing, or internal government of the arsenals and magazines thereon to be erected, and the regulation and management of the same, and of the officers and persons by them to be employed in or about the same." But there was a proviso that the land should not be taxed by the State.

But this act did not transfer from the State her title to the forts and other defensive works in Charleston Harbor, which she built during the Revolution. The transfer was made by an act passed in 1805, to which the following proviso was added: "That, if the United States shall not, within three years from the passing of this act, * * * repair the fortifications now existing thereon or build such other forts or fortifications as may be deemed most expedient, etc., on the same, and keep a garrison or garrisons therein; in such case this grant or cession shall be void and of no effect."[1]

[1] Neither South Carolina nor any other State was paid anything out of the Federal Treasury to reimburse her for her expenses incurred in erecting defensive works in her harbors during the Revolution, nor for cessions of State lands.—See Act of March 20, 1794.

This proviso was disregarded by the United States, the defensive works, including Fort Moultrie, were neglected for years, and Fort Sumter was not commenced till 1829. According to all the laws of justice, therefore, the title to the property reverted to the State, and the repairing and building were carried on solely by the sufferance of the State.[1]

Thus it is clear to anybody who respects the laws governing property titles that the United States occupied the defensive works in the harbor of Charleston without any legal rights of ownership; and since the money spent in building came out of the pockets of the people of all the States, it can not be disputed that whatever equitable rights were acquired belonged to the seceded States as well as to the others. And it is equally indisputable that South Carolina never surrendered her sovereignty over the sites of the forts and other defensive works.

Such, dear reader, was the foundation of the claim that the forts in the harbor of Charleston "belonged to the Government"; and the determination of "the Government" to hold these forts for purposes not only not contemplated in South Carolina's acts of consent

[1] The Act of the Legislature of North Carolina (1794) ceding sites for forts, light-houses, etc., reserved to the officers of the State the power to serve any process or levy executions on the lands ceded, and imposed the conditions that the fortifications, etc., should be erected within three years (which was not complied with), and that they "should be continued and kept up thereafter for the public use." The limit was extended by other acts, and in 1813 it was provided that if the works were not completed within five years the lands should revert to the State.

Evidently there was no intention here to convey a fee-simple title to "the Government"; and since the fortifications on the coast of the State were not completed till twenty years afterwards, it was equally evident that the building, occupation, etc., were at the sufferance of the State.—See Report of Engineer Department, November 23, 1833.

and cession, but in violation of the implied as well as the expressed conditions imposed by her, was notice to her to prepare to defend her sovereignty, was the *casus belli*, the first blow struck in the war between the sections; and she would have deserved the contempt of all honorable men if she had not met it defiantly, as she met Sir Henry Clinton and Sir Peter Parker in June, 1776.[1]

Mr. Lincoln, as has been said, declared war against the Confederate States (which he called "a combination too powerful," etc.), raised armies, proclaimed a blockade of Southern ports, suspended the writ of *habeas corpus* at Baltimore and other places, took money out of the Federal Treasury, and did many other things for which he could find no warrant in that Constitution which he had solemnly sworn to support, before the meeting of the called session of Congress. That body, composed mostly of members from the Northern States, met on the 4th of July, and adjourned on the 6th of August.

One of the first measures—the first resolution—brought before it was a proposition to declare legal and Constitutional what were not legal and Constitutional acts; but the motion failed. Here is an abstract of the proceedings in the Senate (Congressional Globe, 1st session, 37th Congress, pp. 16, 21, 40 and 453):

On the 6th of July "Mr. Wilson (Mass.), in pursuance of previous notice, asked and obtained leave to introduce a joint resolution (Senate No. 1) to approve and confirm certain acts of the President of the United States, for suppressing insurrection and rebellion." The resolution was:

"Whereas, since the adjournment of Congress, on the

[1] See Note Y.

4th day of March last, a formidable insurrection in certain States of this Union has arrayed itself in armed hostility to the Government of the United States, Constitutionally administered; and whereas the President of the United States, did under the extraordinary exigencies thus presented, exercise certain powers and adopt certain measures for the preservation of this Government—that is to say: First. He did, on the 15th day of April last, issue his proclamation calling upon the several States for 75,000 men to suppress such insurrectionary combinations, and to cause the laws to be faithfully executed. Secondly. He did, on the 19th day of April last, issue a proclamation setting on foot a blockade of the ports within the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas. Thirdly. He did, on the 27th day of April last, issue a proclamation establishing a blockade of the ports within the States of Virginia and North Carolina.[1] Fourthly. He did, by order of the 27th day of April last, addressed to the Commanding General of the Army of the United States, authorize that officer to suspend the writ of habeas corpus at any point on or in the vicinity of any military line between the city of Philadelphia and the city of Washington. Fifthly. He did, on the 3d day of May last, issue a proclamation calling into the service of the United States 42,034 volunteers, increasing the regular Army by the addition of 22,714 men, and the Navy by an addition of 18,000 men. Sixthly. He did, on the 10th day of May last, issue a proclamation authorizing the commander of the forces of the United States on the coast of Florida to suspend the writ of habeas cor-

[1] Mr. Lincoln drove Virginia, North Carolina, Tennessee, and Arkansas to choose whether they would assist him in subjugating their Southern sisters or assist them in resisting him. They chose the latter.

pus, if necessary, all of which proclamations and orders have been submitted to this Congress.

"Now, therefore, be it resolved, etc. That all of the extraordinary acts, proclamations and orders, hereinbefore mentioned are, and the same are hereby, approved and declared to be in all respects legal and valid, to the same extent and with the same effect, as if they had been issued and done under the previous express authority and direction of the Congress of the United States."

On July 8th Mr. Wilson, for the Committee on Military Affairs and Militia, to which this resolution had been referred, reported back the resolution, without amendment, and recommended its passage. "I wish to say," he added, "that the action of the President in increasing the Army and calling out the volunteer force, will be regulated by other bills, to be brought in hereafter."

In another place Mr. Wilson said: "A plan has been arranged for the organization of eleven regiments for the Army. Officers have been appointed, * * * sent to certain points of the country, and money has been placed in their hands to fill up the ranks of the Army," etc.

But the resolution was never passed; after many efforts to have a vote on it, it was permitted to die with the session. The last debate on it was closed thus on page 453:

"Mr. Wilson. Let us have a vote.

"Mr Trumbull (of Illinois). Now, my friend is clamorous. He can not keep still. He says let us have a vote. I am not disposed to vote on the resolution. I will tell the Senator from Kentucky (Powell?) I am not prepared to vote for the resolution, and it is not

going to pass without consideration. It is not going to pass in the shape it is in by my approbation."[1]

The Senate then went into executive session, and that evening adjourned *sine die.*

The reason why the Senate refused to pass this resolution may interest the reader; it had not at that early date recognized "military necessity" as paramount to the Constitution which it was under a solemn oath to support.

Not only were all or most of the acts recited in it unconstitutional, but its assertions were repugnant to the meaning of that compact.

1. The alleged offense named in it may be committed against "the United States," but not against "the Government"; and the language of the resolution was due to ignorance or malice.

2 The power to raise armies was delegated exclusively to the Congress.

3. The power to increase the naval forces was delegated exclusively to the Congress.

4. The Constitution conferred on nobody the power to blockade a port in order to collect the revenue thereat, the tariff law being the only one mentioned in Mr. Lincoln's proclamation, the execution of which was "obstructed by combinations too powerful," etc.

5. The President is not authorized by the Constitution to empower a military officer to suspend the writ of *habeas corpus* at his discretion.

6. The Constitution expressly forbids the drawing of

[1] Certain leading newspapers in the North, copied with apparent approval by some Southern papers, are preparing the people for acquiescence in the strides towards imperialism which the war with Spain is rendering easy, by maintaining the doctrine that ours is an "elastic Constitution," and that the President can do whatever in his judgment is best for the country. If this is true. Wilson's resolution should have passed without opposition.

any money out of the Treasury "but in consequence of appropriations made by law."

7. The act of February 28, 1795, (the only anti-insurrection law in force when Mr. Lincoln became President) did not justify him in belittling a sovereign State as a "combination." That act was passed in consequence of the whiskey insurrection in western Pennsylvania the preceding July, in these words: "Whenever the laws of the United States shall be opposed, or the execution thereof obstructed in any State by combinations too powerful to be suppressed by the ordinary course of judicial proceedings, or by the powers vested in the marshals by this act, it shall be lawful for the President of the United States to call forth the militia of such State, or of any other State or States, as may be necessary to suppress such combinations," etc.

This silent disapproval, by his party friends, of Mr. Lincoln's course up to July 4, 1861, seems to have been in accord with a sentiment which prevailed in many sections of the North, as may be inferred from the following indications of opinions:

1. On December 31, 1860—eleven days after the secession of South Carolina—Mr. Pryor, of Virginia, offered the following resolution in the House of Representatives: "That any attempt to preserve the Union between the States of this Confederacy by force would be impracticable, and destructive of Republican liberty."

On the motion of Mr. Stanton, the resolution was laid on the table, the yeas being 98 and the nays 55.[1] Among the nays were Messrs. Logan, McClernand, and Sickles.[2]

[1] Congressional Globe, Part I, Volume XIII, Second Session, Thirty-sixth Congress, page 220.

[2] Mr. Sickles proposed on December 17, 1860—three days before South Carolina seceded—that the Constitution be amended so as to provide for peaceable secession.—Congressional Globe, Second Session, Thirty-sixth Congress, Volume II, page 107.

2. On February 5, 1861, Mr. Logan delivered a speech in the House of Representatives (after South Carolina, Florida, Georgia, Alabama, Mississippi, and Louisiana had withdrawn from the Union, and a secession ordinance had been submitted to the popular vote in Texas), in which, misunderstanding the real causes of the long contest between the sections, he expressed his views thus: "The abolitionists of the North have constantly warred upon Southern institutions, by incessant abuse from the pulpit, from the press, on the stump, and in the halls of Congress, denouncing them as a sin against God and man; they have in many places, by mobs, resisted the execution of the fugitive slave law; they have, in several of the Northern States, by legislative enactment, made it a penitentiary offense for anyone to assist in the arrest or rendition of a fugitive slave. By these denunciations and lawless acts on the part of abolition fanatics, such results have been produced as to drive the people of the Southern States to a sleepless vigilance for the protection of their property and preservation of their rights." Addressing the fanatics in Congress who had resisted every attempt to compromise the differences between the sections, he said: "I would ask these gentlemen, who are opposed to concession or compromise, and in favor of war for the subjugation of these revolting States, if it would not be better for us all, North and South, to adjust our difficulties in a proper spirit on some just basis; banish the slavery agitation from the halls of Congress forever; avoid war, bloodshed, and the horrors of civil strife, and once more give peace to a distracted country? Let them refuse this; let this Congress adjourn without adjusting these difficulties or submitting them to the people for their action, and I envy not the position of any gentleman in

this House or the other end of the Capitol who has interposed obstructions, or may yet do so," etc. [1]

3. In the "Peace Congress," February 23, 1861, Mr. Vandever, of Iowa, offered and moved the adoption of the following:

"*Resolved*, That whatever may be the ultimate determination upon the amendments of the Federal Constitution, or other propositions for adjustment approved by this Convention, we, the members, do recommend our respective States and constituencies to faithfully abide in the Union."

And on a motion to table the ayes were Rhode Island, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, Tennessee, Kentucky, Missouri and Ohio. [2]

4. Northern sentiment adverse to coercion is expressed in the following extracts from newspapers (taken from Greeley's American Conflict, Vol. I, beginning on p. 395):

a. The Albany Argus of November 10, 1860, said: "We sympathize with and justify the South as far as this: their rights have been invaded to the extreme limit possible within the forms of the Constitution; and, beyond this limit, their feelings have been insulted and their interests and honor assailed by almost every possible form of denunciation and invective; and, if we deemed it certain that the real animus of the Republican party could be carried into the administration of the Federal Government, and become the permanent policy of the Nation, we should think that all the instincts of self-preservation and of manhood rightfully impelled them to a resort to revolution and a separation

[1] Appendix, Globe, Second Session, Thirty-sixth Congress, pages 178–180.

[2] Official Journal of the Conference Convention, page 43.

from the Union, and we would applaud them and wish them God-speed in the adoption of such a remedy."

b. The Rochester Union, "two or three days later," said: "Restricting our remarks to actual violations of the Constitution, the North have led the way, and for a long period have been the sole offenders, or aggressors. * * * Owing to their different circumstances, Northern States have been enabled to secure their cherished object by violating the Constitution in a way that does not necessitate secession. * * * Owing to their peculiar circumstances, the Southern States can not retaliate upon the North without taking ground for secession."

c. The Albany Argus, November 12, said: "If South Carolina, or any other State, through a Convention of her people, shall formally separate herself from the Union, probably both the present (Buchanan) and the next (Lincoln) Executive will simply let her alone, and quietly allow all the functions of the Federal Government to be suspended. Any other course would be madness."

d. The New York Herald, November 9, said: "Each State is organized as a complete government, holding the purse and wielding the sword, possessing the right to break the tie of the confederation as a nation might break a treaty, and to repel coercion as a nation might repel invasion. * * * Coercion, if it were possible, is out of the question."

e. The New York Express, April 15, 1861, said: "The 'irrepressible conflict,' started by Mr. Seward and endorsed by the Republican Party, has at length attained to its logical foreseen result. That conflict, undertaken 'for the sake of humanity,' culminates now in inhumanity itself, and exhibits the afflicting spectacle of brother shedding brother's blood.

"Refusing the ballot before the bullet, these men, flushed with the power and patronage of the Federal Government, have madly rushed into a civil war, which will probably drive the remaining slave States into the arms of the Southern Confederacy, and dash to pieces the last hope for a reconstruction of the Union. * * * To the cold-blooded, heartless demagogues who started this civil war—themselves magnanimously keeping out of the reach of bodily harm—we can only say, You must find your account, if not at the hands of an indignant people, then in the tears of widows and orphans. The people of the United States, it must be borne in mind, petitioned, begged, and implored these men, who are become their accidental masters, to give them an opportunity to be heard before this unnatural strife was pushed to a bloody extreme, but their petitions were all spurned with contempt," etc.

In another editorial the Express said: "They fight upon their own soil, in behalf of their dearest rights—for their public institutions, their homes, and their property. * * * The South, in self-preservation, has been driven to the wall, and forced to proclaim its independence. A servile insurrection and wholesale slaughter of the whites will alone satisfy the murderous designs of the abolitionists. The Administration, egged on by the halloo of the Black Republican journals of this city, has sent its mercenary forces to pick a quarrel and initiate the work of desolation and ruin. A call is made for an army of volunteers, under the pretense that an invasion is apprehended of the Federal Capital; and the next step will be to summon the slave population to revolt and massacre."

f. The Utica, N. Y., Observer said: "Brave men, fighting on their own soil, and, as they believe, for their freedom and dearest rights, can never be subjugated.

* * * "Who are to fight the battles of sectional hatred in this sad strife? The seceders will fight; but will the abolitionists, who have combined with them to overthrow the Union, make themselves food for powder? * * * The abolitionist will sneak in the background, leaving those to do the fighting who have no interest in the bloody strife, no hatred against their brethren."

g. The Bangor (Maine) Union said: "Democrats of Maine! the loyal sons of the South have gathered around Charleston, as your fathers of old gathered about Boston, in defense of the same sacred principles of liberty—principles which you have ever upheld and defended with your vote, your voice, and your strong right arm. Your sympathies are with the defenders of the truth and the right. Those who have inaugurated this unholy and unjustifiable war are no friends of yours—no friends of Democratic Liberty. Will you aid them in their work of subjugation and tyranny? * * * Say to them fearlessly and boldly, in the language of England's great Lord, the Earl of Chatham, * * * 'If I were a Southerner, as I am a Northerner, while a foreign troop was landed in my country, I would never lay down my arms—*never*, NEVER, NEVER.'"

h. The Journal of Commerce (New York) said: "No doubt it has been precipitated by the sending of a fleet with troops by the United States Government, for the relief (as was understood) of Sumter. And on the other hand, it may be said that this action * * * was occasioned by the cutting off of supplies from Fort Sumter by the Confederate authorities, which rendered it necessary to send them from New York or some other point. To this again, it may be replied, that the cutting off of supplies by the Confederate authorities was caused by the long continued delay of the United States authorities to take or consent to any measures of adjust-

ment of the pending differences, thus leaving the Confederate authorities subject to the necessity of maintaining a large military force at Charleston for an indefinite period, or abandon their claims altogether," etc. [1]

i. The Boston Post said: "An extra session of Congress should be called at once"—which Mr. Lincoln refused to do—"and if that body prove incompetent to the duty required, then a National Convention should be convened; and, if all measures for a satisfactory adjustment fail, after full hearing and answers to statements of discontent, * * * let it (the South) depart in peace, if possible," etc.

j. Mr. Greeley's opinion expressed in the Tribune of November 9, 1860, that the States possessed the right to withdraw from the Union, is recorded in another chapter.

k. One other expression of views is worth recording, because it came from a man whose insight into motives was of rare force. Gen. Joseph Lane, of Oregon, replying in the Senate, March 2, 1861, to a speech of Senator Andrew Johnson's advocating the "execution of the laws," "protecting the public property," etc., said: "Sir, if there is, as I contend, the right of secession, then, whenever a State exercises that right, this Government has no laws in that State to execute, nor has it any property in such State that can be protected by the power of this Government. In attempting, however, to substitute the smooth phrases 'executing the laws' and 'protecting public property' for coercion, for civil war, we have an important concession: that is,

[1] The reader must bear in mind that South Carolina seceded on the 20th of December, and demanded possession of the forts in Charleston harbor; and that nearly four months passed by before she knew what "the Government" would do.

that this Government dare not go before the people with a plain avowal of its real purposes and their consequences. No, sir; the policy is to inveigle the people of the North into civil war, by masking the design in smooth and ambiguous terms."[1]

But by the machinations of ignorant reformers, mendacious demagogues,[2] and zealous fanatics the days of cool reason soon passed away; all this pleading for the principles of the Constitution was hushed; Messrs. Logan, McClernand, and Sickles were found at the head of bodies of troops engaged in destroying "republican liberty"; and Mr. Greeley was among the loudest of those who shouted, "On to Richmond!"

Vigorous, concerted, and in many instances successful efforts were made to place the people of the Southern States on a level with savages; even Abraham Lincoln in his Gettysburg address, November 19, 1863, told his hearers—and this speech is embalmed among the sacred literature of the North—that the Southern people were attempting to destroy the Federal Government and to cause "government of the people, by the people, and for the people" to "perish from the face of the earth"; and soon patriotism and hatred of the people of the South became synonymous terms in the minds of many

[1] *Globe, Second Session, Thirty-sixth Congress, page 1,347.*

[2] Among the false accusations set in motion to fire the hearts of the people of the North these two may be taken as samples:

1. It was charged in an Act of the Congress passed July 31, 1861, that the Confederates intended to destroy the Government of the United States; and

2. United States army officers who resigned in 1861 and went with their States were accused of violating their official oaths, which was represented to be an oath of *allegiance to the Government*, whereas the language of it was: "*I, A. B., do solemnly swear * * * that I will bear true faith and allegiance to the United States of America, and that I will serve* THEM *honestly*," etc.—Act of January 11, 1812.

of the more ignorant of the Northern people. The war raged for four years, thousands were butchered, thousands of others were maimed for life, several hundred millions of dollars worth of property in the South were wantonly destroyed, millions more were stolen, millions more of captured and so-called abandoned property were carried out of the South by orders of the military officers,[1] thousands of Southern women and children were reduced to beggary—to say nothing of the personal insults and outrages they had to submit to from the black and white brutes who wore the Federal uniform—and a colossal war debt was saddled on the people of the South as well as the North, which, including $1,727,000,000 of pensions, amounted on June 30, 1894, according to the report of the Secretary of the Treasury for that year (p. CXXIX), to $16,386,000,000 already paid. This was nearly three hundred and twenty-eight dollars *per*

[1] Gen. W. T. Sherman wrote to General Halleck on January 1, 1865, that he had devastated a strip of Georgia "thirty miles on either side of a line from Atlanta to Savannah," an area 2,465 square miles larger than the State of Vermont; and that he had damaged the State as much as $100,000,000, including $20,000,000 which had "inured" to the "advantage" of the invaders.—War Records, XLIV, 7-14.

Much of this fiendish work was done by the cavalry of Gen. Judson Kilpatrick. He reported (Ibid., 28) that they had burnt 14,070 bales of cotton, 13,400 bushels of corn and meal, 80 tons of fodder, 50 barrels of molasses, 25 barrels of salt, 36 grist mills, 27 sawmills, 271 cotton gins, besides quantities of rice, wagons, carts, tools, etc., etc.

Congratulating Sherman "upon the splendid result" of this devastating march, "the like of which is not read of in past history," General Grant subscribes himself, "more than ever, if possible," his friend.—Ibid., page 741.

Mr. Lincoln, closing a letter of thanks for all this vandalism, says: "Please make my grateful acknowledgments to your whole army, officers and men."—Ibid., page 809.

And public sentiment in the Northern States to-day, if we may judge by McClure's Magazine for June, 1898, page 171, is that this was Sherman's "glorious March to the Sea."

capita of the average population (50,000,000) between 1865 and 1894, an annual *per capita* burden of nearly eleven dollars, and a penalty laid on the Southern people about eleven times as grievous as the indemnity exacted from the French at the close of the Franco-German War, with the prospect of its being at least twenty times as grievous before we are rid of it. [1]

But even these enormous amounts do not reveal all the iniquity. All the bonds sold from 1862 to 1868 (both years included) represented a face value of $2,049,975,700, and for them the treasury received treasury notes (greenbacks) worth in coin, on the average for the period, only $1,371,424,238; so that here was at the outset a clear gain to the bondholders of $678,551,462. But this is not all; taking the average price of cotton for the first four years after the war, and also for the whole period up to 1894, we find that one bale would pay as much of this debt during the first period as two and one-half bales would pay during the whole period; and in 1894 it required six and six-tenths times as many bales as would have been necessary in the first period. As cotton fell, therefore, the bonds went up, and the vassalage of the South became more burdensome. [2]

To these inflictions on the people of the South, affect-

[1] This does not include the cost of the "reconstruction measures," the military despotism in the South, the malignant "force bills," the "election laws," etc., etc., nor the enormous debts piled up on the Southern people by the "carpet-bag" governments established in the Southern States under the wing of "the Government," nor the millions spent by each Northern State in the prosecution of the war, for which it has been reimbursed out of the general treasury. Nor does it include the cost of the soldiers' homes, or the sums given annually to retired officers and enlisted men who served in the armies of the Northern States during the war between the sections —a class of pensioners never heard of in these States till after that war commenced.

[2] See Note Z.

ing the products of their toil, must be added a contempt for their sensibilities which "the Government" has never shown towards any other people. Not only did it for a number of years after the war force on these people so-called State officials, as Governors, Judges, legislators, etc., whom the people had no voice in choosing; but it sent objectionable strangers or appointed objectionable natives to represent "the Government" as Commissioners, Collectors of Customs, Marshals, Postmasters, Revenue Officers, etc. This last offense has been kept up till now, and, in spite of remonstrances and protests, it will likely continue, while to no other people on the globe is any disagreeable person—*persona non grata*—sent as a representative of the Government. Friendly courtesy is shown to foreign States only.

Nothing of the sort was ever heard of till "the Government" fell into the hands of the North. Even Mr. Lincoln, while announcing his purpose to "hold, occupy and possess the property and places belonging to the Government, and to collect the duties and imposts," declared that there would be "no attempt to force obnoxious strangers among the people for that object."[1]

But perhaps all these wrongs and their immediate results may be less disastrous to our ultimate welfare than the vicious doctrines which, during the war and the "Reconstruction" period, gained an undisputed footing in the Northern States. The Union of the Constitution was destroyed, and what Senator Wade called "a miserable despotism" was erected on its ruins; "the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively," was no longer "essential," as Mr.

[1] See Note Aa.

Lincoln's platform declared it to be, "to that balance of power on which the perfection and endurance of our political fabric depends"; and the men who had fought in the armies of the North were told, as General Grant told a reunion of the Army of the Tennessee at Des Moines, Ia., in September, 1875, that the trials and hardships of the war were "imposed for the preservation and perpetuation of our free institutions"!

NOTE X.

'The prevalent belief of the Southern people that the abolitionists and the free-soilers of the Northern States were in sympathy with John Brown's invasion of Virginia and his attempt to excite an insurrection of the slaves, was met by a vigorous denial all over the North. But how far this denial was based on the truth may be inferred from the following scene in the office of Governor Andrew, of Massachusetts: In the summer of 1862, after Andrew had received some assurances that Mr. Lincoln would likely yield to New England's demand that he interfere in some way with slavery in the South, "a young merchant of Boston," who had been selected by Andrew to go on a mission to Washington, joined the Governor in his office in singing "Coronation," "Praise God, from whom all blessings flow," and "then," he said, "I sang 'Old John Brown,' he (Andrew) marching around the room and joining in the chorus after each verse."—Memoirs of John A. Andrew, page 37.

NOTE Y.

The substitution of the words "the Government" for those of the Constitution—"the United States"—which was done in 1861, for obvious reasons, has served the purpose of falsifying in the public mind the real motives for the inauguration of the war; and this substitution has been kept up ever since for reasons equally discreditable.

A few examples will not be uninteresting:

1. In the Constitution "treason against the United States shall consist only in levying war against them," etc.; but now the only treason known in the Union is against "the Government."

2. In the Constitution the President is empowered to grant pardons for "offences against the United States"; but now he pardons for offences "against the Government."

3. In the Constitution the Congress is empowered "to borrow money on the credit of the United States"; but now it borrows on the credit of "the Government."

4. In the Constitution we find "the securities and current coin of the United States"; but now we hear only of "Government" securities, etc.

5. In the Constitution reference is made to persons "employed in the service of the United States"; but now they are all in the employment of "the Government."

6. In the Constitution reference is made to the debts, obligations, etc., "of the United States"; but now they are debts and obligations "of the Government."

7. In the Constitution there are "officers of the United States"; but now they are "officers of the Government."

8. In the Constitution reference is made "to controversies to which the United States shall be a party"; but now "the Government" is a party to suits.

9. In the Constitution provision is made for the disposal of "the territory or other property belonging to the United States"; but now we hear of "Government" property, or "property belonging to the Government."

10. In the Constitution we read of things done or to be done "under the authority of the United States"; but now they are done "under the authority of the Government."

The undoubted purpose of this vicious substitution was to create in the minds of the people in these States and in Europe the impression that the Government of the United States is *over* the States, they bearing a subordinate relation to it; that "the Government" is sovereign, and the States, for all practical purposes, mere provinces; and that, therefore, "the Government" possessed the right to subjugate the seceded States.

This perversion of the truth was carried over and presented to the Tribunal of Arbitration which met in Geneva in 1871-'72 to settle the "Alabama Claims"; but the fear that it could not be imposed on the arbitrators, led to a supplementary falsehood, the peculiar nature of which, it was thought, would have the desired influence on them. It was a misrepresentation, by garbled extracts, of the reasons proclaimed by the seceding States for their action.

It is "the case of the United States" prepared, presumably, by the ablest lawyers to be found; and is Senate Executive Document No. 31, Second Session, Forty-second Congress.

It begins with an untruth, namely, "In 1861 the United States had been an independent Nation for a period of eighty-four years, and acknowledged as such by Great Britain for a period of seventy-seven years." There are in fact two untruths; both assertions are utterly inconsistent with the facts set forth in the Treaty of Peace and with the known relations of the States in 1783.

The first article in the treaty is:

"His Britannic Majesty acknowledges the said United States, viz: New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign and independent States; that he treats with them as such," etc.—See Laws of the State of North Carolina, page 559.

The language of the treaty is in perfect accord with the second article of the Articles of Confederation, wherein each State was recognized as sovereign, free, and independent. Nor is there a syllable in the Declaration of Independence, the Articles of Confederation, or in the Constitution indicating that the people of the several States ever intended to consolidate themselves into a "nation," or ever did in fact do so.

But, supposing that this untruth would be accepted as a fundamental fact, the "case" proceeds to lay down another. It is:

"On the 6th day of November, in that year, the jurisdiction of the Government of the United States extended unquestioned over eighteen States from which African slavery was excluded; over fifteen States in which it was established by law; and over a vast territory in which, under the then prevailing laws, persons with African blood in their veins could be held as slaves.

"This large unsettled or partially settled territory, as it might become peopled, was also liable to be divided into new States, which, as they entered into the Union, might, as the law then stood, become slave States, thus giving the advocates of slavery an increased strength in the Congress of the Nation, and more especially in the Senate, and a more absolute control of the National Government."

Here we have the language of imperialism: the "jurisdiction of the Government" extending "over" the States and the territory indiscriminately; "the Congress of the Nation"; and "the National Government"—all in a grave diplomatic paper presented to a body of arbitrators who were supposed to be unfamiliar with the history and the principles of our Federal Union.

The supplementary falsehood, its foundations laid in the last clause quoted above, reaches its full proportions in the following condensed extracts: "The general election * * * resulted in the choice of Abraham Lincoln. The party which elected him was pledged in advance to 'maintain that the normal condition of all the territory of the United States is that of freedom,' and to 'deny the authority of Congress, of a Territorial Legislature, or of any individuals, to give legal existence to slavery in any Territory of the United States.' * * *

"This decision * * * was resisted by some of the inhabitants of the States where slavery prevailed. The people of South Caro-

lina * * * commenced the hostile movement. In the following month they proclaimed, through a State Convention, their purpose to secede from the Union, because the party about to come into power had 'announced that the South shall be excluded from the common territory.'[1] The State of Alabama * * * followed, * * * giving as their reason that the election of Mr. Lincoln 'by a sectional party, avowedly hostile to the domestic institutions (i. e., slavery) of Alabama,' was 'a political wrong of an insulting and menacing character.'

"The State of Georgia followed, etc., etc.

"On the 4th of February, 1861, representatives from some of the States which had attempted to go through the form of secession * * * met at Montgomery, in the State of Alabama, for the purpose of organizing a provisional Government, and having done so, elected Mr. Jefferson Davis as the provisional President, etc. In accepting the office, on the 18th of February, Mr. Jefferson Davis said: 'We have vainly endeavored to secure tranquillity and obtain respect for the rights to which we were entitled' (i. e., the right to extend the domains of slavery).[2] * * * Having thus formally declared that the contemplated limitation of the territory within which negro slavery should be tolerated was the sole cause of the projected separation," etc., etc.

Such was the "case of the United States," prepared under the supervision of the Secretary of State, Hamilton Fish, and presented to the Tribunal of Arbitration, which, basing the justice of its decision on representations in it, awarded damages to the United States in the sum of about fifteen million dollars.

It totally reversed the Constitutional relations of the States to each other and to the Government which they had created, and, by garbling extracts from the proceedings of Southern Conventions and from Mr. Davis's address, which, in brackets it falsely interpreted, it was a "case" which had really nothing to support it.

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[1] The truth is carefully concealed here. South Carolina's reason for secession was that thirteen Northern States had repudiated one of the covenants of the Constitution, and two Northern States had repudiated another of the covenants. But truth did not suit the purpose of the writer.

[2] Mr. Davis said: "Through many years of controversy with our late associates of the Northern States, we have vainly endeavored to secure tranquillity and obtain respect for the rights to which we were entitled. As a necessity, not a choice, we have resorted to the remedy of separation," etc. Would separation secure "the right to extend the domains of slavery"?

NOTE Z.

This burden on the South had to be borne by people who had made almost superhuman efforts in a four-years war against from four to five times their own numbers in defense of the doctrine that "all just government rests on the consent of the governed"; a people of whom every able-bodied man who could be spared from home gave from three to four years of his time, without reward, except bare subsistence, to the cause of the South; a people whose soldiers returned home after the war without money, without hope, and trembling at the threats of confiscation and other dire calamities to be visited upon them by the insolent conquerors; and a people who have for thirty-one years been subjected to all the ill's of political debauchery forced on them by "the Government."

A letter written by a Southern veteran relating one of his experiences deserves to be copied here that the hardships of the soldiers of the Confederacy may not be forgotten. What he says will not be disputed by any man who served in any of the armies. He is criticising the complaining warriors who fought in the war with Spain. He says:

"I remember one incident of my life that I would like to repeat to those complaining warriors. On July 25, 1862, Kemper's Brigade of Pickett's Division left Gordonsville, Va., in light marching order with three days rations in their haversacks—and that was the last one we drew until September 20, almost two months. Incredible, but as true as holy writ, and look what we did. Our Brigade was about two thousand strong, my regiment, the Seventeenth Virginia, had about four hundred and seventy-five in all or about four hundred and forty muskets. We crossed the Rappahannock July 27 and skirmished all the 28th, and marched to Salem that day and rested. On the night of the 29th we made that famous march of thirty-five miles, for Stonewall Jackson was staggering beneath the weight of all Pope's army. We reached Thoroughfare Gap the morning of the 30th and got breakfast of 'roasting ears.' The next two days we fought the battle of Manassas, and that night feasted on the captured supplies. Onward! still onward, without a halt, men dropping out every minute from weakness and sickness; over the mountains into the valley; across the Potomac; into Maryland, living entirely on green apples and corn, we fought the battle of Crampton Gap September 12th, marched all night and fought the battle of Boonsboro the 14th, then northward and back, until the morning of the 17th of September, when my regiment drew up in line of battle at Sharpsburg with 46 muskets and 5 officers, all of us barefooted, not one had tasted meat for a couple of weeks; all were in rags, and without a shred of underclothing, and all were devoured with vermin, and we held all day Burnside's column back, though

they were five to our one, and I was the only private unwounded and untouched at the end of the fight. With all the suffering there was no complaint—we took everything as a matter of course," etc.—Fayetteville (N. C.) Observer, October 20, 1898.

NOTE AA.

Lest those readers who belong to the post-bellum generation suspect undue coloring if not exaggeration in regard to objectionable appointments and other offensive acts of "the Government," some documentary evidence is appended:

Two years after the war closed Gen. Daniel E. Sickles was Military Governor of North and South Carolina, and among the orders issued by him was one dated at Charleston, S. C., April 11, 1867, wherein he decreed as follows:

"XV. The Governors of North and South Carolina shall have authority, within their jurisdictions respectively, to reprieve or pardon any person convicted and sentenced by a civil court, and to remit fines and penalties.

* * * * * * *

"XVII. Any law or ordinance, heretofore in force in North or South Carolina, inconsistent with the provisions of this General Order, is hereby suspended and declared inoperative."

Again, on June 3, 1867, he decreed as follows:

"I. Sheriffs, Chiefs of Police, City Marshals, Chiefs of Detectives, and Town Marshals of the several districts, counties, cities, towns and other municipal organizations in North Carolina and South Carolina will at once, by letter, report to Bvt. Col. Edward W. Hinks, United States Army, Provost-Marshal-General of the Second Military District, Charleston, South Carolina, etc.

* * * * * * * * * *

"VI. All Sheriffs, Constables, Police and other civil officers and persons, whose duty it is under the laws of the *provisional* governments of North Carolina and South Carolina to serve writs or make arrests, are hereby required to obey and execute the lawful orders of the Provost-Marshal-General," etc.

And General Sickles was graciously moved to order as follows on May 15th:

"Commanding officers of posts are authorized upon good and sufficient cause shown, to grant permission to public officers to carry arms when absolutely necessary in the discharge of their duties," etc.

Succeeding General Sickles as a preferable tool to carry out the purposes of the authors of the "Reconstruction" measures, General Ed. R. S. Canby ordered an election to be held in North Carolina on the 19th and 20th days of November, 1867, for delegates to a so-called Constitutional Convention; the ballots cast by the colored people

and the few whites who were permitted to vote—30,000 of them being disfranchised—were sent to Charleston where General Canby counted them and declared the result; the expenses of this outrage were paid out of the people's pockets; and among his many other acts which would have disgraced an ancient Persian satrap, General Canby issued the following order:

"Headquarters Second Military District,
Charleston, S. C., June 30, 1868.

"General Order
No. 120.

3. To facilitate the organization of the new State governments"—under the Canby Constitutions he means—"the following appointments are made:

"To be Governor of North Carolina, W. W. Holden, Governor-elect *vice* Jonathan Worth, removed."

And this same man (Holden), after having been impeached by the Legislature of North Carolina, found guilty of high crimes and misdemeanors, driven from the office of Governor, and declared incapable of holding any office of trust or profit under the government of the State of North Carolina, was appointed Postmaster at Raleigh by President Grant, and held that office under "the Government" about twelve years.

CHAPTER XXI.

THE ABOLITION OF SLAVERY NOT AMONG THE CAUSES OF THE WAR.

The progress of events and the motives of men as they are presented in the preceding chapter would render it unnecessary to point out that the abolition of slavery in the Southern States was not among the objects of those who waged war against these States; but as mankind are disposed to infer causes from results, and the literature of the Union is disfigured by misrepresentations of the origin as well as the progress of the war and its so-called "legitimate" results, it is deemed important to give the reader the evidence on this point preserved in official documents.[1]

1. The platform on which Mr. Lincoln stood for the Presidency declared for "the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively."

2. In Mr. Lincoln's inaugural address he said: "I have no purpose, directly or indirectly, to interfere

[1] Occasionally one of the apologists of the North unwittingly admits the true reason for the subjugation of the Southern States. On page 747 of the Footprints of Time and Analysis of our Government, by Charles Bancroft, this occurs:

"We could not reasonably have expected either the North or the South to have acted differently from what they did. While so gigantic a war was an immense evil, to allow the right of peaceable secession would have been ruin to the enterprise and thrift of the industrious laborer and keen-eyed business man of the North. It would have been the greatest calamity of the age. War was less to be feared."

Being interpreted, this means that to the North it would be "the greatest calamity of the age" if they should lose the power to "share" by Federal law, "in the profits of the unpaid labor of the South."

See Note Ab.

with the institution of slavery in the States where it exists. *I believe I have no lawful right to do so*, and I have no inclination to do so."

3. Gen. John C. Fremont, who undertook, without any "application of the Legislature or of the executive" to "guarantee" to Missouri "a republican form of government," issued a proclamation, August 30, 1861, in which he "declared freemen" all the slaves of the "rebels" in the State; but on September 2 Mr. Lincoln disapproved the proclamation.

4. On October 3, 1861, Gen. J. H. Lane—known as "the Kansas Jayhawker"—addressed a letter from Kansas City to Gen. S. D. Sturgis, in which he said: "My brigade is not here for the purpose of interfering in anywise with the institution of slavery."

5. On the 9th of April, 1862, the Northern troops evacuated Jacksonville, Fla., and on April 15 Colonel Dilworth, the Confederate Commander at Tallahassee, reported that "after the evacuation the enemy returned, under a flag of truce, and were permitted to land fifty-two negroes, which were taken in charge by the commander of the post."

6. General Hunter, who was placed in command of "the Southern department," by Mr. Lincoln, in March, 1862, issued a proclamation on April 12 declaring slavery abolished; but it was disapproved by Mr. Lincoln.

7. After the disasters to Mr. Lincoln's troops on their march "to Richmond," at Sharpsburg, at Fredericksburg, and at Chancellorsville, and Mr. Lincoln's call for more troops was met in Massachusetts and other New England States by the declaration that New England did not desire to "preserve the Union" of the Constitution, but was willing to assist in prosecuting the war if the abolition of slavery in the Southern States were an-

nounced as a purpose of "the Government," Mr. Lincoln yielded only so far as to consent to issue a proclamation declaring free the slaves of "rebels."[1] This he did on January 1, 1863. He did not propose to free all the slaves in the South, the only object being to punish the "rebels." The proclamation contained some interesting passages and some remarkable doctrines.

After reciting the substance of a previous proclamation, in which he had warned the "rebels" of his purpose to issue this proclamation, he proceeds to name the States in which he proposed to free the slaves, but he excepts "the parishes of St. Bernard, Plaquemines, Jefferson, St. John, St. Charles, St. James, Ascension, Assumption, Terre Bonne, Lafourche, St. Mary, St. Martin, and Orleans, including the city of New Orleans (all in Louisiana), forty-eight counties designated as West Virginia, and also the counties of Berkeley, Accomac, Northampton, Elizabeth City, York, Princess Ann, and Norfolk, including the cities of Norfolk and Portsmouth" (all in Virginia). All this he says he does by virtue of the power vested in him "as Commander-in-Chief of the army and navy of the United States, in time of actual armed rebellion against the authority

[1] Writing to the Secretary of War May 19, 1862, in answer to a letter inquiring about the disposition of the people of Massachusetts, Governor John A. Andrew said: "If our people feel that they are going into the South to help fight rebels, who will kill and destroy them by all the means known to savages; * * * will use their negro slaves against them both as laborers and as fighting men"—Andrew knew, of course, that neither slaves nor free negroes had been enlisted in the Southern armies—"while they themselves must never fire at the enemy's magazine"—i. e. attack the institution of slavery—"I think they will feel that the draft is heavy on their patriotism. But if the President will sustain General Hunter, * * * the roads will swarm, if need be, with multitudes whom New England would pour out to obey your call."—Sketch of Governor Andrew (1868), written by his Military Secretary, page 73.

and government of the United States, and as a fit and necessary war measure for repressing said rebellion"; though he does not enlighten us as to where and when and how this power was vested in him.

He proceeds then to declare and make known that he intends to repeat the crime charged against George III in the Declaration of Independence, namely "He has excited domestic insurrections amongst us," by arming the slaves so declared free and sending them to butcher the white people of the South.

And closing, he expresses the sincere belief that this is "an act of justice, warranted by the Constitution"!

The fact is beyond cavil, therefore, that slavery was not an issue in the inception of the war, and that when emancipation was announced as one of the objects of the Northern government, the sole purpose was to weaken the South.[1] And all their dealings with the race question since the war have had a common object in view—the degradation of the descendants of the men who, in 1765, compelled the stamp master at Wilmington to resign, and extorted from Governor Tryon a promise not to attempt to enforce the Stamp Act; of the men who, in February, 1776, defeated and dispersed Governor Martin's tory allies at Moore's Creek Bridge; of the men who, in the winter of 1775 and 1776 drove Lord Dunmore out of Virginia; of the men who defeated and drove away from Charleston, in the summer

[1] Mr. Joseph Holt, of Kentucky, who as Judge-Advocate-General gained some notoriety from his connection with the trial of Mrs. Surrat, wrote a letter to Mr. Lincoln September 12, 1861, asking in behalf of the people of the border States that he disapprove Fremont's proclamation, and referred to the "fears of any attempt on the part of the government of the United States to liberate suddenly in their midst a population unprepared for freedom, and whose presence could not fail to prove a painful apprehension, if not a terror, to the homes and families of all."—War Records, 2d series, Vol. I, page 768.

of 1776. Sir Henry Clinton's army and Sir Peter Parker's fleet; of the men who, in the early years of the Revolution, sent cargoes of provisions and other supplies to the suffering people of Boston.

Such was the object of making voters, over the veto of President Johnson, of the ex-slaves in 1867, before the Fourteenth Amendment was declared to have been adopted, and of disfranchising thousands—estimated at 30,000 in North Carolina—of hereditary voters in the Southern States.[1] Such was the object of subjecting the Southern States, in spite of the President's veto, to the domination of the ex-slaves of the South and the "carpet-baggers from the North"[2] Such was the object of the "force bills" and of the "civil rights" bills, passed over the President's veto, which the Supreme Court declared unauthorized by even the amendments which the revolutionists had forced into the Constitu-

[1] The revolutionists forgot to enfranchise the colored people in the District of Columbia till 1871. Then the government of the District was placed in the hands of the people thereof; but three years of corruption and incompetence, due, as nobody doubted, to the heavy negro vote in the District, compelled a repeal of the law (June 20, 1874) by the very malignants who were sending bayonets to supervise elections in the South and insure "manhood suffrage."

[2] President Johnson referring in his annual message of December 3, 1867, to the enfranchising of the blacks, said: "It is manifestly and avowedly the object of these laws to confer upon the negroes the privilege of voting, and to disfranchise such a number of white citizens as will give the former a clean majority of all elections in the Southern States. * * * The subjugation of the States to negro domination would be worse than the military despotism under which they are now suffering. * * * Already the negroes are influenced by promises of confiscation and plunder. They are taught to regard as an enemy every white man who has any respect for the rights of his own race. * * * Of all the dangers which our nation has yet encountered, none are equal to those which must result from the success of the effort now making to Africanize the half of our country."

tion. And such was the object of the election laws providing for military control of elections in the Southern States. [1]

Thirty years of efforts have been made to disprove this truth; and humanity and love for the negro have been held up as the sole motive of the radicals. [2] But actions speak louder than words.

They have never elected a colored man to any State or county office; they have never elected a colored man to either House of the Congress; they have never appointed a colored man to any Federal office—even a fourth-class post-office—in the Northern States; and they have denied him that equality of opportunity in industrial

[1] This crime against the freedom of elections, of which no English king has been guilty in more than two centuries, appears never to have been suspected as a possibility by the opponents of the Constitution. Objection, it is true, was made to the power proposed to be conferred on the Congress "to make or alter" regulations as to "times, places and manner of holding elections for Senators and Representatives," but not even a lunatic could be found to suggest that the representatives of the Northern States would ever send negro troops to supervise elections in the Southern States. In Nos. LIX, LX, and LXI of the Federalist. Mr. Hamilton makes it clear that the objections rested solely on the "times and places."

And, reader, the authors of all these crimes had taken a solemn oath (prescribed by themselves without Constitutional authority) to "bear true faith and allegiance" to the Constitution. And the piety of the criminals was manifested in the legend they had placed on the silver dollar: "In God We Trust."

See Note Ac.

[2] In the speech of Judge Ewart, of North Carolina, in the House of Representatives, against the notorious "force bill" which was passed by that body in 1890, under the whip and spur of such leaders as Hon. Thomas B. Reed he said:

"It is a sectional measure, designed almost entirely for the South."

* * * * * * * * *

"I will never, by my vote or voice, support a proposition that tends to humiliate or degrade my people."

employments which is supposed to be the birth-right of every voter in the United States. [1]

In the August 13, 1896, number of Public Opinion are extracts from New England newspapers showing how the negro stands among the whites of that section.

Zion's Herald (Methodist), Boston, said: "Boston, representing the soul and intellect of the North, was the nursery of that second great movement of our country that led to the freedom of 4,000,000 of slaves. * * * "Of the 8,590 (negroes) in the city we find about 5,000 of them in four wards, and nearly the total number grouped in two small areas at the West and South Ends. The families are massed—ward II with 1,099 negroes, has more than twice as many dwellings occupied by ten families each as any ward in the city. There are many well-to-do colored people in Boston, * * * and they do not naturally choose the negro sections. * * * But the truth is, they can't help themselves. 'We can not rent to colored people,' said Mr. S., a broker on Washington street, 'except in the negro quarters. Property always decreases in value as the negroes increase in numbers about it.' * * *

"There is no more striking difference between the negroes of the North and South than in the matter of their labor. Here the negro carries the hod, in the South

[1] In the months of September and October, 1898, about three hundred negro laborers—citizens of Southern States—were driven out of Illinois, whither they had gone to work in coal mines, the first time by threats, and the last time by bullets; and the Governor of the State not only refused to protect them in their rights, but publicly announced his pleasure at their expulsion. And this was done in violation of the first clause of section two, Article IV, of the Federal Constitution, which Governor Tanner is under a solemn oath to "support." But worse still, it was done in violation of the first clause of the XIVth Amendment, which Governor Tanner's political associates forced into the Constitution as a step in the degradation of the "old rebel element" in the Southern States.

he lays the brick and mortar; here he is a common laborer, there he is an artisan. * * *

"'I have complained to my people,' said Rev. Dr. D. P. Roberts, pastor of the A. M. E. Church in Charles street, 'and the white people have complained to me, that we negroes do not take advantage of the educational opportunities offered us by Boston. All the schools and colleges of this State are opened to us as to whites; * * * but as a class we do not study. Why? Massachusetts opens her schools to us, but she shuts her shops. * * * Boston does many splendid things for the negro visitor, but other than as a guest she has no room for him except in the places no white man wants. * * * She loves to put a diploma in his hands, but with it a ticket for the South.'

"The color line is drawn in Boston—silently and courteously, but positively and rigorously drawn. * * * 'I came from Baltimore to Boston,' said a negro in answer to our question as to how he liked the city, 'and I am going back to Baltimore. The difference between the two places is just this: There we know what to expect, and we take our place; but here you are never told and you never know, but for all that you find yourself quietly pushed aside and left out.'"

And the *Providence (R. I.) Journal* apologetically says: "As it is in Boston, so it is in other Northern cities. There is no particular moral to be drawn from the fact, no especial complaint to be made on either side. There is no ill feeling entertained by the whites of the North toward the negro. Nobody wishes to deprive him of a single legal right. But when it comes to the intimate and private phases of society the white man will erect such barriers as he pleases, whether against the black, the Mongolian, or the uncongenial white person. This"—forgetting the "civil rights bills"

supported in Congress by Massachusetts and Rhode Island—"is something outside the pale of law, and no amount of legislation could effect a permanent or widespread change."

NOTE AB.

Accepting the theory that the Southern people were fighting in defense of slavery in the Southern States, some uninformed persons, even in the South, have expressed surprise that the Confederate authorities did not agree to surrender to Mr. Lincoln "when he offered to pay for the slaves." But although most of the school boys and newspaper readers, North and South, have been reading about this offer for over thirty years, and most of our channels of information have been befouled by the falsehood, Mr. Lincoln made *no such offer to the Confederate authorities.* But it is asserted by the apologists of the North that Mr. Lincoln did, on the 6th of March, 1862, recommend to the Congress the passage of an act offering pecuniary compensation to slave-holders; and that such an act was passed. This is "history" in Alden's Cyclopædia. But *no such an act was ever passed;* and however much Mr. Lincoln may have personally favored compensation to slave-owners, nobody has told us where the money was to come from. Did Mr. Lincoln propose to collect it out of the pockets of the slave-holders of the South as well as of the non-slave-holders of the North? The only act ever passed offering compensation to slave-holders was that of April 16, 1862, abolishing slavery in the District of Columbia. It provided for compensation to "loyal" owners in the District, if the applicant for compensation could prove by other testimony than his own oath that he had approved all the measures of the usurpers.

NOTE AC.

Extract from a speech delivered by the author October 7, 1893,[1] in the House of Representatives:

"The Speaker *pro tempore.* The House is in session for the purpose of discussing the bill H. R. 2331"—to repeal Federal election laws. "The gentleman from North Carolina (Mr. Grady) is recognized.

"Mr. Grady:

* * * * * * * * *

"Now, Mr. Speaker, having given a brief resume of some of the decisive facts in our history, and given what I believe, and what my people believe, to be the true principles on which the Union of these

[1] Cong. Rec., 53d Cong., 1st sess., pp. 2303-2306.

States was founded, it seems unnecessary to tell this House what I think of some of the provisions of the Federal election laws. I deny, of course, that there is any such thing in this Union as a national election or a Federal election.

"The States conferred upon the Congress the power to make laws or alter State laws prescribing the times, places, and manner of holding elections for Representatives, and the times and manner of choosing Senators. I grant all this. But there is another provision of the Constitution, Mr. Speaker, which must be permitted to have its full force when these election laws are under consideration. It was taken for granted that it would be an insult to the dignity of a sovereign State for the United States to send their soldiers into its borders, even for the purpose of guaranteeing the State 'against domestic violence,' unless demand for assistance were made by the State Legislature or by the Executive when the Legislature could not be convened; in which case the Federal Government was to be obedient to a State. I remind gentlemen that this is the meaning of that provision, that when the State makes that demand the Federal Government is to obey.

"The spirit of this provision—indeed the well-known temper of the States at that time, when they declared that the Congress should never raise an army for a longer period than two years—can not be misunderstood; and if Federal troops can not, unless invited by the State, go into its borders to quell 'domestic violence,' where do we find an excuse for sending them, of our own motion, to anticipate 'domestic violence,' and 'to keep peace at the polls?' Mr. Speaker, words have no meaning if Congress possesses this power.

"And how can Congress interfere with the registration of voters when their qualifications are absolutely subject to State determination? I should doubt the sincerity of any sane man who will assert that it can.

"But, Mr. Speaker, the advocates of these laws fortify their contention by citing decisions of the Supreme Court; and I wonder how a political party which has scouted and trampled on decisions of that court can stand here, unabashed, and ask us to yield our opinions as law-makers to the opinion of that court. It is true, Mr. Speaker, that the Supreme Court is against us as to some of the sections of these laws, but what is its argument? Here it is in a nutshell, as delivered by Justice Miller in *ex parte* Yarborough (110 U. S. R., 651):

"'That a government whose essential character is republican, whose executive head and legislative body are both elected, whose most numerous and powerful branch of the Legislature is elected by the people directly, has no power by appropriate laws to secure this election from the influence of violence, of corruption, and of fraud,

is a proposition so startling as to arrest attention and demand the greatest consideration.'

"This reasoning looks sound, Mr. Speaker, but it is drawn from the necessity of the case—not from the Constitution. And when we remember that the President of the United States—our 'king in dress-coat'—has more power than any other elected officer in the world, the necessity for supervising his election and guarding it against fraud and corruption overshadows any such supposed necessity for supervision of elections for Representatives. But the States delegated no power whatever to the Congress over the Presidential elections, while they did make the House of Representatives the judge of the elections, returns and qualifications of its own members. The argument from necessity, therefore, proves too much, and reaches, in my judgment, a lame and impotent conclusion; indeed, it is founded on the 'national idea.'"

APPENDIX.

A DECLARATION BY THE REPRESENTATIVES OF THE UNITED STATES OF AMERICA, IN GENERAL CONGRESS ASSEMBLED.[1]

When in the course of human events it becomes necessary for a people to advance from that subordination in which they have hitherto remained, and to assume among the powers of the earth the equal and independent station to which the laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the strange separation.

We hold these truths to be sacred and undeniable; that all men are created equal & independent; that from that equal creation they derive rights inherent & inalienable, among which are the preservation of life & liberty & the pursuit of happiness; that to secure these ends, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government shall become destructive of these ends, it is the right of the people to alter or to abolish it, & to institute a new government, laying its foundation on such principles & organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes: and accordingly all experience hath shown that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, begun at a distinguished period, and pursuing invariably the same object, evinces a design to subject them to arbitrary power, it is their right, it is their duty, to throw off such government & to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to expunge their former systems of government. The history of his present majesty is a history of unremitting injuries and usurpations, among which no fact stands single or

[1] Jefferson's draft, taken from a facsimile in Conrad's Lives of the Signers and copied literally, except that capital letters are substituted at the beginnings of sentences for the small ones almost invariably used by Jefferson.

solitary to contradict the uniform tenor of the rest, all of which have in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world, for the truth of which we pledge a faith yet unsullied by falsehood:

He has refused his assent to laws the most wholesome and necessary for the public good:

He has forbidden his governors to pass laws of immediate & pressing importance, unless suspended in their operation till his assent should be obtained; and when so suspended, he has neglected utterly to attend to them.

He has refused to pass other laws for the accommodation of large districts of people unless those people would relinquish the right of representation, a right inestimable to them, & formidable to tyrants only:

He has called together legislative bodies at places unusual, uncomfortable, & distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures;

He has dissolved representative houses repeatedly & continually for opposing with manly firmness his invasions on the rights of the people:

When dissolved, he has refused for a long space of time to cause others to be elected, whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise, the state remaining in the mean time exposed to all the dangers of invasion from without & convulsions within:

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migrations hither; & raising the conditions of new appropriations of lands:

He has suffered the administration of justice totally to cease in some of these colonies, refusing his assent to laws for establishing judiciary powers:

He has made our judges dependent on his will alone, for the tenure of their offices, and amount of their salaries:

He has erected a multitude of new offices by a self assumed power, & sent hither swarms of officers to harrass our people & eat out their substance:

He has kept among us in times of peace standing armies & ships of war:

He has affected to render the military independent of & superior to the civil power:

He has combined with others to subject us to a jurisdiction foreign to our constitutions and acknowledged by our laws; giving his assent to their pretended acts of legislation, for quartering large

bodies of armed troops among us; for protecting them by a mock-trial from punishment for any murders they should commit on the inhabitants of these states; for cutting off our trade with all parts of the world; for imposing taxes on us without our consent; for depriving us of the benefit of trial by jury; for transporting us beyond seas to be tried for pretended offences; for taking away our charters, & altering fundamentally the forms of our governments, for suspending our own legislatures & declaring themselves invested with power to legislate for us in all cases whatsoever:

He has abdicated government here, withdrawing his governors, & declaring us out of his allegiance and protection:

He has plundered our seas, ravaged our coasts, burnt our towns & destroyed the lives of our people:

He is at this time transporting large armies of foreign mercenaries to compleat the works of death desolation & tyranny already begun with circumstances of cruelty & perfidy unworthy the head of a civilized nation:

He has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes, & conditions of existence:

He has incited treasonable insurrections of our fellow-citizens, with the allurements of forfeiture & confiscation of our property:

He has waged cruel war against human nature itself, violating its most sacred rights of life & liberty in the persons of a distant people who never offended him, captivating & carrying them into slavery in another hemisphere, or to incur miserable death in their transportation thither. This piratical warfare, the opprobrium of *infidel* powers, is the warfare of the *Christian* king of Great Britain determined to keep open a market where MEN should be bought and sold. He has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce: and that this assemblage of horrors might want no fact of distinguished die, he is now exciting those very people to rise in arms among us, and to purchase that liberty of which *he* has deprived them, by murdering the people upon whom *he* also obtruded them: thus paying off former crimes committed against the *liberties* of one people, with crimes which he urges them to commit against the *lives* of another.

In every stage of these oppressions "we have petitioned for redress in the most humble terms"; our repeated petitions "have been answered by repeated injuries." A prince whose character is thus marked "by every act which may define a tyrant," is unfit to be the "ruler of a people who mean to be free." Future ages will scarce believe that the hardiness of one man adventured within the short

compass of twelve years only * * * [1] over a people fostered & fixed in principles of liberty.

Nor have we been wanting in attentions to our British brethren. We have warned them from time to time of attempts by their legislature to extend a jurisdiction over these our states. We have reminded them of the circumstances of our emigration & settlement here, no one of which could warrant so strange a pretension: that these were effected at the expence of our own blood & treasure, unassisted by the wealth or the strength of Great Britain: that in constituting indeed our several forms of government, we had adopted one common king, thereby laying a foundation for perpetual league and amity with them: but that submission to their parliament was no part of our constitution, nor ever in idea if history may be credited: and we appealed to their native justice & magnanimity, as well as to the ties of our common kindred to disavow these usurpations which were likely to interrupt our correspondence & connection. They too have been deaf to the voice of justice & of consanguinity, and when occasions have been given them, by the regular course of their laws, of removing from their councils the disturbers of our harmony, they have by their free election re-established them to power. At this very time they too are permitting their chief magistrate to send over soldiers not only of our common blood, but Scotch & foreign mercenaries to invade & deluge us * * * [1]

These facts have given the last stab to agonizing affection, and manly spirit bids us to renounce forever these unfeeling brethren. We must endeavor to forget our former love for them, and to hold them as we hold the rest of mankind enemies in war, in peace friends. We might have been a free & a great people together; but a communication of grandeur & of freedom it seems is below their dignity. Be it so since they will have it: the road to glory and happiness is open to us too; we will climb it separately, and acquiesce in the necessity which pronounces our everlasting adieu.

We therefore the representatives of the United States of America in General Congress assembled do in the name & by authority of the good people of these states reject and renounce all allegiance & subjection to the king of Great Britain & all others who may hereafter claim by, through, or under them; we utterly dissolve & break off all political connection which may have heretofore subsisted between us & the people or parliament of Great Britain; and finally we do assert and declare these colonies to be free and independent states, and that as free and independent states they shall hereafter have power to levy war conclude peace, contract alliances, estab-

[1] These blanks are where erasures have rendered Jefferson's words illegible.

lish commerce, & to do all other acts and things which independent states may of right do. And for the support of this declaration we mutually pledge to each other our lives, our fortunes, and our sacred honor.

ARTICLES OF CONFEDERATION.[1]

Art. 1. The style of this confederacy shall be, 'The United States of America."

Art. 2. Each state retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right. which is not by this confederation expressly delegated to the United States in Congress assembled.

Art. 3. The said states hereby severally enter into a firm league of friendship with each other for their common defence, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

Art. 4. The better to secure and perpetuate mutual friendship, and intercourse among the people of the different states in this Union, the free inhabitants of each of these states, paupers, vagabonds, and fugitives from justice, excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce subject to the same duties, impositions, and restrictions, as the inhabitants thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state to any other state, of which the owner is an inhabitant; provided also, that no imposition, duties, or restriction, shall be laid on the property of the United States or either of them.

If any person guilty of or charged with treason, felony, or other high misdemeanor, in any state, shall flee from justice, and be found in any of the United States, he shall, upon demand of the governor or executive power of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.

Art. 5. For the more convenient management of the general interests of the United States, delegates shall be annually appointed

[1] Some unimportant words and phrases are omitted.

in such manner as the legislature of each state shall direct to meet in Congress on the first Monday in November, in every year, with a power reserved to each state to recall its delegates or any of them, at any time within the year, and to send others in their stead for the remainder of the year.

No state shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit, receives any salary, fees, or emoluments of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court or place out of Congress; and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from and attendance on Congress, except for treason, felony, or breach of the peace.

Art. 6. No state, without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance, or treaty, with any king, prince, or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever, from any king, prince, or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation, or alliance whatever, between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties entered into by the United States in Congress assembled, with any king, prince, or state, in pursuance of any treaties already proposed by Congress to the courts of France and Spain.

No vessel-of-war shall be kept up in time of peace by any state, except such number only as shall be deemed necessary by the United States in Congress assembled for the defence of such state or its trade; nor shall any body of forces be kept up by any state in time of peace, except such number only as in the judgment of the United States in Congress assembled, shall be deemed requisite to garrison

the forts necessary for the defence of such state; but every state shall always keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and shall provide and have constantly ready for use, in public stores, a due number of field-pieces and tents, and a proper quantity of arms, ammunition, and camp equipage.

No state shall engage in any war without the consent of the United States in Congress assembled unless such state be actually invaded by enemies or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay till the United States in Congress assembled can be consulted; nor shall any state grant commissions to any ships or vessels-of-war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state, and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such state be infested by pirates, in which case vessels-of-war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

Art. 7. When land forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively, by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

Art. 8. All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states in proportion to the value of all land within each state granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states, within the time agreed upon by the United States in Congress assembled.

Art. 9. The United States in Congress assembled shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances;

provided, that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas, and establishing courts for receiving and determining finally appeals in all cases of captures: provided, that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states * * * and the judgment and sentence of the court shall be final and conclusive * * * ; provided also that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil, claimed under different grants of two or more states * * * shall, on the petition of either party to the Congress of the United States, be finally determined, as near as may be, in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states—fixing the standard of weights and measures * * —regulating the trade and managing all affairs with the Indians not members of any of the states; provided that the legislative right of any state within its own limits be not infringed or violated—establishing and regulating postoffices from one state to another * * * and exacting such postage on the papers passing through the same, as may be requisite to defray the expenses of the said office—appointing all officers of the land forces in the service of the United States excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces.

The United States in Congress assembled shall have authority to appoint a committee to sit in the recess of Congress, to be denominated "a committee of the states," and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the

United States, under their direction—to appoint one of their number to preside * * * —to ascertain the necessary sums of money to be raised * * * and to appropriate and apply the same * * * —to borrow money or emit bills on the credit of the United States * * * —to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men, and clothe, arm, and equip them, in a soldier-like manner, at the expense of the United States. * * *

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defence and welfare, * * *, nor emit bills, nor borrow money, * * *, nor appropriate money, nor agree upon the number of vessels of war to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine states assent to the same; nor shall a question on any other point, except for adjourning from day to day, be determined, unless by the votes of a majority of the United States. * * *

(Then follow regulations as to places of meeting, length of recesses, publishing proceedings, recording yea and nay votes, etc.)

Art. 10. The committee of the states, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which * * * the voice of nine states * * * is requisite.

Art. 11. Canada, acceding to this confederation, and joining in the measures of the United States, shall be admitted into, and entitled to, all the advantages of this Union; but no other colony shall be admitted into the same unless such admission be agreed to by nine states.

Art. 12. All bills of credit emitted, moneys borrowed, and debts contracted, by or under the authority of (the Continental) Congress, before the assembling of the United States, in pursuance of the present confederation, shall be deemed and considered as a charge against the United States. * * *

Art. 13. Every state shall abide by the decision of the United States in Congress assembled, on all questions which, by this confederation, are submitted to them. And the articles of this confed-

eration shall be inviolably observed by every state, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislature of every state.

THE CONSTITUTION OF THE UNITED STATES.

Preamble.

We, the people of the United States, in order to form a more perfect Union, establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

Article I. Legislative Department.

Section I. Congress in General.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section II. House of Representatives.

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

2. No person shall be a Representative who shall not have attained the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of *New Hampshire* shall be entitled to choose three, *Massachusetts* eight, *Rhode Island and Providence Plantations* one, *Connecticut* five, *New York* six, *New Jersey*

four, *Pennsylvania* eight, *Delaware* one, *Maryland* six, *Virginia* ten, *North Carolina* five, *South Carolina* five, and *Georgia* three.

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

5. The House of Representatives shall choose their Speaker and other officers, and shall have the sole power of impeachment.

Section III. Senate.

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof, for six years; and each Senator shall have one vote.

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year; of the second class, at the expiration of the fourth year, and of the third class, at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise during the recess of the legislature of any State, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

4. The Vice-President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

5. The Senate shall choose their other officers, and also a President *pro tempore* in the absence of the Vice-President, or when he shall exercise the office of President of the United States.

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside: and no person shall be convicted without the concurrence of two-thirds of the members present.

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment, and punishment, according to law.

Section IV. Both Houses.

1. The times, places, and manner of holding elections for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

Section V. The Houses Separately.

1. Each house shall be the judge of the elections, returns, and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authoized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

2. Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and with the concurrence of two thirds, expel a member.

3. Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy, and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

4. Neither house, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

Section VI. Privileges and Disabilities of Members.

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law and paid out of the Treasury of the United States. They shall, in all cases except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house they shall not be questioned in any other place.

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States shall be a member of either house during his continuance in office.

Section VII. Mode of Passing Laws.

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

2. Every bill which shall have passed the House of Representatives and the Senate shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal and proceed to reconsider it. If after such reconsideration two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

Section VIII. Powers granted to Congress.

The Congress shall have power:

1. To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States;

2. To borrow money on the credit of the United States;

3. To regulate commerce with foreign nations and among the several States, and with the Indian tribes;

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

7. To establish post-offices and post-roads;

8. To promote the progress of science and useful arts by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

9. To constitute tribunals inferior to the Supreme Court;

10. To define and punish piracies and felonies committed on the high seas and offenses against the law of nations;

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

13. To provide and maintain a navy;

14. To make rules for the government and regulation of the land and naval forces;

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions;

16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

17. To exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; and

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States, or in any department or officer thereof.

Section IX. Restrictions on the United States.

1. The migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

3. No bill of attainder or ex post facto law shall be passed.

4. No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

5. No tax or duty shall be laid on articles exported from any State.

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to or from one State be obliged to enter, clear, or pay duties in another.

7. No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

8. No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any king, prince, or foreign State.

Section X. Powers Relinquished by the States.

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

2. No State shall, without the consent of Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another State or with a foreign power, or engage in war, unless actually invaded or in such imminent danger as will not admit of delay.

Article II. Executive Department.

Section I. President and Vice-President.

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and together with the Vice-President, chosen for the same term, be elected as follows:

2. Each State shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress; but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

3. [The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice-President.] [1]

4. The Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States.

5. No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President, and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected.

7. The President shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he may have been elected, and he shall not receive

[1] This clause of the Constitution has been amended. See Amendments, Art. XII.

within that period any other emolument from the United States or any of them.

8. Before he enter on the execution of his office he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability preserve, protect and defend the Constitution of the United States."

Section II. Powers of the President.

1. The President shall be Commander-in-chief of the Army and Navy of the United States, and of the militia of the several States when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and, by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.[1]

Section III. Duties of the President.

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both houses, or either of them, and in case of disagreement between them with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

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[1] It is not an uncommon thing for the President to appoint a party during a recess of the Senate, and then to reappoint him if the Senate neglects or refuses to confirm the appointment, and so on *toties quoties*. In this way he nullifies the Constitution.

Section IV. Impeachment.

The President, Vice-President and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery or other high crimes and misdemeanors.

Article III. Judicial Department.

Section I. United States Courts.

The judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

Section II. Jurisdiction of the United States Courts.

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens, or subjects.[1]

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

Section III. Treason.

1. Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

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[1] This clause has been amended. See Amendments, Art. XI.

2. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood or forfeiture except during the life of the person attained.

Article IV. Mutual Obligations assumed by the States.

Section I. State Records.

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Section II. Obligations as to privileges of citizens and of fugitives from justice or labor.

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall, on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

Section III. New States and the Public Lands.

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States or parts of States, without the consent of the legislatures of the States concerned as well as of the Congress.

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or of any particular State.

Section IV. Guarantee from all the States to each.

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened), against domestic violence.

Article V. Power of Amendment.

The Congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which in either case shall be valid to all intents and purposes as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress, provided that no amendments which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Article VI. Public Debt; Supremacy of the Constitution, Laws, and Treaties; Oath of Office; No Religious Test.

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution as under the confederation.

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

3. The Senators and Representatives before mentioned, and the members of the several State legislatures, and all executive and judicial officers both of the United States and of the several States, shall be bound by oath or affirmation to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

Article VII. Ratification of the Constitution.

The ratification of the conventions of nine States shall be sufficient for the ratification of this Constitution between the States so ratifying the same.

Amendments proposed by the Congress September 25, 1789, and declared in force December 15, 1791:

Article I.

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

Article II.

A well-regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed.

Article III.

No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Article IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

Article V.

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Article VI.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Article VII.

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

Article VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Article IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Article X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.

Amendment proposed by the Congress March 5, 1794, and declared in force Jan. 8, 1798.

Article XI.

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

Amendment proposed by the Congress Dec. 12. 1803, and declared in force Sept. 25, 1804.

Article XII.

The electors shall meet in their respective States and vote by ballot for President and Vice-President. one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President, and they shall make distinct lists of all persons voted for as President and of all persons voted for as Vice-President. and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall be counted. The person having the greatest number of votes for President shall be the President, if such number be a major ty of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President.

2. The person having the greatest number of votes as Vice-President shall be the Vice-President, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then from the two highest numbers on the list the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

3. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

Amendment proposed by the Congress of the (24) United States, the 11 Southern States not being represented, Feb. 1, 1865. and adopted by the legislatures of 26 States. including 8 States which "the government" refused afterwards to recognize as States.

Article XIII.

1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction.

2. Congress shall have power to enforce this article by appropriate legislation.

Amendment proposed by the Congress of the (25) United States, the 11 Southern States having no voice in it, and ratified by the legislatures of 29 States (of which New Jersey, Oregon, and Ohio afterwards repealed their ratifying ordinances), including 8 Southern States which were under the control of Northern adventurers and the ex-slaves.

Article XIV.

1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the States wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life. liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice-President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the legislature thereof, is denied to any of the male inhabitants of such State. being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion. or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

3. No person shall be a Senator or Representative in Congress, or elector of President and Vice-President, or hold any office, civil or military, under the United States or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may, by a vote of two-thirds of each house, remove such a disability.

4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations, and claims shall be held illegal and void.

5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Amendment proposed by the Congress of the (25) United States, the 11 Southern States not being represented, and ratified by the legislatures of 18 States and 11 military despotisms in the South.

Article XV.

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation. [1]

[1] It would be difficult to frame another amendment containing in it such invincible evidence of the ignorance of the framers. "The right of citizens of the United States to vote"—the right depending, as this amendment implies, on the fact that they are "citizens of the United States"—never was heard of before 1867. Women and children are "citizens" as well as the husbands and fathers; and the "right to vote" was under the exclusive control of each State. And the right of the United States to "deny" or "abridge" the elective franchise in a State was never heard of before nor since that date.

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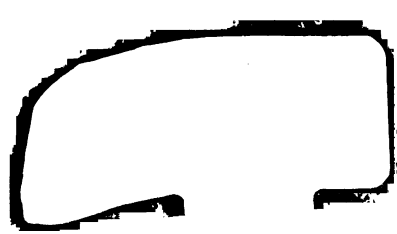

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